

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 18, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|--|---|--|
| Opening Remarks | Welcome and Introductions of new Committee members | Chairman Bair |
| | Introduction of Committee Page - Liberty Stokes | Chairman Bair |
| <u>RS24143</u> | Revises bond amount provisions and for requests for releases | Jack Lyman, IMA |
| Rules | Remarks by Rules Chairman | Vice Chairman Vick |
| | DEPARTMENT OF ENVIRONMENTAL QUALITY | |
| | Remarks relating to DEQ | John Tippetts, Director, DEQ |
| Docket No. <u>58-0125-1401</u> | Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IPDES) | Barry Burnell, Water Quality Division Administrator, DEQ |
| Docket No. <u>58-0102-1201</u> | Water Quality Standards | Barry Burnell |
| Docket No. <u>58-0102-1501</u> | Water Quality Standards | Barry Burnell |
| Docket No. <u>58-0111-1501</u> | Ground Water Quality Rule | Barry Burnell |
| Docket No. <u>58-0104-1501</u> | Rules for Administration of Wastewater Treatment Facility Grants | Barry Burnell |
| Docket No. <u>58-0112-1501</u> | Rules for Administration of Water Pollution Control Loans | Barry Burnell |

Any Rule that is not heard today will be heard on Wednesday, January 20.

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 18, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

WELCOME: **Chairman Bair** stated that it was good to see such a large audience in attendance at the Committee's first meeting. He then welcomed the returning Committee members and introduced the new Committee members, Senators Bayer and Hagedorn. The Committee's secretary, Juanita Budell, was also recognized.

The Committee's page, Liberty Stokes, was introduced. Liberty is from Blackfoot, attends Snake River High School, and is heavily involved in music. She plays the French horn in the school's band and orchestra and hopes to attend college on a music scholarship. Liberty has lived on a farm and has learned about hard work and responsibility, which she feels has helped to shape her personality.

Chairman Bair advised the Committee of the contents of the blue and red folders at their desks. Blue folders contain the agenda and handouts from individuals and agencies. Red folders contain only RS's and bills. This procedure will be followed at all Committee meetings. In the blue folders on this day were the agenda, letters from the Nez Perce Tribe, Shoshone-Bannock Tribes, Coeur d'Alene Tribe and IACI (Idaho Association of Commerce and Industry). In the red folder was RS 24143.

Chairman Bair welcomed Mr. Jack Lyman, Executive Vice President, Idaho Mining Association, who presented RS 24143.

RS 24143 **Mr. Lyman** said that RS 24143 amends the Surface Mining Act in three ways: 1) It amends 45-year-old language related to environmental compliance to bring it into conformity with the state's anti-degradation policy; 2) increases the threshold bond amount to \$15,000 per acre from the current \$2,500 per acre, and an operator is entitled to a hearing before the Land Board to contest the proposed bond amount; and 3) adds a new requirement that when the Department of Lands fails to return a reclamation performance bond or a permanent closure performance bond for a cyanide facility, it is to notify the operator in writing why the bond will not be returned and what the operator must do to have the bond returned.

Mr. Lyman stated that if this RS is introduced and the bill is given a hearing, he will provide the Committee with a history of the Surface Mining Act, the major rewrites of the Act that were completed in 1997 and 2005 and reasons why these changes are appropriate now.

MOTION: **Senator Siddoway** moved to print **RS 24143**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Chairman Bair passed the gavel to Vice Chairman Vick.

Vice Chairman Vick explained the process of the rules hearings as carried out by this Committee. He then welcomed former Senator John Tippetts, who is now Director of the Department of Environmental Quality (DEQ).

Director Tippetts said it was good to be back in the Capitol, as he served on this Committee for a time while he was a Senator. His wish for this Committee is to have a productive session. He then introduced some members of his staff: Jess Byrne, Deputy Director; Barry Burnell, Water Quality Division Administrator; Doug Conde and Paula Wilson.

Director Tippetts said that he wanted to talk briefly about the incorporation of federal regulations by reference and what they have done differently this year. In the past, they usually just asked the Committee to trust DEQ that the changes the federal government made to their code were appropriate for Idaho. This year, rather than asking the Committee to take their word for it that the changes should be accepted, DEQ has a document that summarizes the changes. Director Tippetts hopes this is helpful and would like feedback on how they might improve the document that has been prepared.

Director Tippetts extended an invitation to the Committee to meet with him or his staff on any questions they may have and should you have a constituent request, they will do what they can to assist you. He then turned the time over to Mr. Burnell to present the rules.

**DOCKET NO.
58-0125-1401**

Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IPDES). **Mr. Barry Burnell**, Water Quality Division Administrator, presented this rule, which was initiated to implement Idaho Code § 39-175C, a statute that directs DEQ to seek approval of a National Pollutant Discharge Elimination System (NPDES) program. There was a need to have appropriate regulations in the Idaho administrative code to oversee the implementation of an Idaho Pollutant Discharge Elimination System (IPDES) permitting, compliance and enforcement program. If this rule is not adopted, then DEQ will not meet the September 2016 NPDES application deadline, which was directed by the 2014 legislative session and the passage of 2014 H 406.

Mr. Burnell stated that eight public negotiated rulemaking meetings were held beginning in December 2014 and continuing through July 2015. DEQ held open public meetings during the course of the negotiations. Participation in the rulemaking process included representatives from cities, industry, tribes, the Environmental Protection Agency (EPA) and other environmental groups.

Mr. Burnell said the cost involved in implementing this program is roughly \$3 million annually. Two million dollars would come from the General Fund, and the remainder would be made up by fees paid by municipalities, individual industrial dischargers and construction and industrial storm water permittees.

Several provisions of this rule require a statutory change. The Clean Water Act requires that state programs allow public access to certain permit-related information and that no one issuing or hearing appeals regarding permits has a conflict of interest. The rule addresses these required elements, but statutory changes are also needed. Two companion bills have been drafted to address these issues and they are RS 23979, dealing with appeals, and RS 23978, amending the public records law.

DEQ was cognizant of the stringency clause in Idaho Code, and the resulting rule meets but does not go beyond the federal law and regulations that control state program requirements. This rule incorporates, by reference, several sections of the Code of Federal Regulations (40 CFR 123).

TESTIMONY: **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, Inc. (IWUA), testified in support of this rule. He complimented DEQ for their professionalism and inclusiveness to make sure that all involved got to see the white papers and drafts. IWUA had an opportunity to provide input and offered three sets of written comments on this rule. A concern they had was that the fee burden would not be such that an individual irrigator could not afford to be part of the state program. Other concerns were consultations with federal agencies and stringencies, which were met to their satisfaction.

TESTIMONY: **Mr. Justin Hayes**, Program Director, Idaho Conservation League (ICL), said they oppose this rule. ICL did participate in the development of DEQ's rules. As to the stringency clause, it is no more and no less than the federal requirements. **Mr. Hayes** indicated that one change is with the state staffing and state funding. They are pleased that about half of the staff to be added will be used for compliance and enforcement, which ICL feels is critical.

Mr. Hayes said that one concern that had been voiced was about the backlog of permits of the existing EPA program. With Idaho in charge of this program and the additional staffing, permits should be more timely and that is critical to the protection of the environment.

MOTION: **Chairman Bair** moved to approve **Docket No. 58-0125-1401**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0102-1201 **Water Quality Standards.** Mr. Marcus Coby, Fort Hall Business Council, Shoshone-Bannock Tribes, spoke on behalf of the Shoshone-Bannock Tribes. They are opposed to the rule as it does not protect Idaho's water resources, nor does it protect their membership. A copy of Mr. Coby's testimony is attached (see attachment 1).

TESTIMONY: Written testimony in opposition to Docket No. 58-0102-1201 was submitted by Anthony D. Johnson, Chairman, Nez Perce Tribal Executive Committee, and Samuel N. Penney, Chief, Nez Perce Tribe. Copies of their testimony are attached (see attachments 2 and 3).

TESTIMONY: Written testimony in opposition to Docket No. 58-0102-1201 was submitted by J. Allan, Chief, Coeur d'Alene Tribe. A copy of his testimony is attached (see attachment 4).

PASSED THE GAVEL: Vice Chairman Vick passed the gavel to Chairman Bair.

Chairman Bair announced that due to time constraints, discussion on Docket No. 58-0102-1201 would continue on Wednesday, January 20, as would the remaining items on the agenda.

ADJOURNED: The meeting was adjourned at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary



January 18, 2016

Senate Environment and Resources Committee
Meeting regarding Water Quality Standards
Docket No. 58-0102-1201 (Pending Rule)

Re: Testimony of the Shoshone-Bannock Tribes regarding the final submission of the 'Fish Consumption' rule for Idaho waters.

Tsaangu Beachiku, Good Morning members of Idaho's Senate Environment and Resources Committee. As a member of the Fort Hall Business Council I have been asked to deliver our testimony regarding IDEQ's submission of the final draft rule that will set fish consumption rates in Idaho waters and impact water decisions for human health. The Fort Hall Business Council, which is the governing body of the Shoshone-Bannock Tribes, is here today to speak on behalf of our Tribal membership and our Tribal lands located on the Fort Hall Reservation in southeast Idaho. The Tribes would like to express our appreciation for allowing time to hear this testimony on behalf of our most sacred resource, our water; the one thing tying us all together here today. Our people believe strongly that water is life, everything living owes its very existence to the presence of water, and Idaho has a problem today with the water flowing through our lands, across our mother earth. I am here on behalf of my people to say clearly that we will never stop fighting to protect our water, those who swim in it, and our membership who continue living on those gifts as our ancestors did for thousands of years.

The Tribes are very concerned with the final rule presented here today for your approval, we are concerned that it doesn't protect water resources in Idaho and it doesn't protect our membership. The Tribes entered into the Fort Bridger Treaty, a solemn agreement with the United States in 1868, long before Idaho was even a State that our people would be able to 'hunt on the unoccupied lands of the United States' so long as game was found there. Your decision here today represents an opportunity for each of you to honor that obligation to Idaho citizens, members of the Shoshone-Bannock Tribes.

Before I go into the specifics, I want to point out that two major decisions were made by Idaho behind closed doors after the rulemaking process was over. During numerous meetings with the Tribes we were presented two guiding principles for this process, first that we would not increase our cancer risks and second that this new rule would not allow for water quality standards to slip backward. Somewhere along the way, a choice was made to reduce the acceptable cancer risk rate from one in a million to one in one-hundred thousand, you increased the risk by an entire order of magnitude in spite of these earlier promises, not to mention that the rule here in front of you today did not keep strong protections against contaminants in place. The most valued people

in our community are our elders and our children; they are the ones responsible for passing our traditional cultural practices from generation to generation. These are the most vulnerable people in our community to the health risks related to fish consumption and they will be impacted the most by the choice you make here today. Based on acceptable cancer risk rate in front of you, this proposed rule amounts to a fish consumption rate for carcinogens of only 6.65 grams per day; less than what you can fit on a cracker. You've proposed a set of standards that imperils the existence of our people.

This rule is clearly less stringent than what you've proposed for water quality criteria in the previous drafts for carcinogens. There is a disproportionate impact on the members of the Shoshone-Bannock Tribes, a protected class; and, as the highest fish consuming population in Idaho we are outraged to see our membership protected at a lower rate than the general population. As Idaho's original citizens, we deserve the same protections afforded to the general population and it speaks volumes that we would be considered as less worthy of consideration than anyone else. In fact, if you would just set consumption rates that would be protective of our current rates, then the entire population of Idaho would be better off; the water would be cleaner, the fish would be safer, and we could rest easy knowing that each of our children are living in a better world. But the rule in front of you puts us at an unacceptable high risk.

To ensure our rights and interests were addressed by IDEQ, the Tribes participated throughout the rule making process...providing comments on policy choices, the draft rule, and even making a formal presentation at a rule making meeting on current issues that suppress our consumption of fish. Our efforts then went a step further by providing IDEQ with a peer-reviewed study titled the "Idaho Tribes' Fish Consumption Study" and then produced a defined "Tribal Heritage Rate" based on our past consumption. We submitted these studies for your consideration, along with all of the scientific methodologies used to develop these reports and consumption rates. We didn't go through all this effort because we thought our work would be disregarded in the end, we didn't go through all of this process because we wanted to see a rule that didn't protect our membership...We went through all of this work because we wanted to demonstrate, in a manner that you would understand, the challenges that we are facing in today's world. You can imagine how discouraging it was to read this final rule and learn that once again Tribal comments were dismissed out of hand. What we see now is a drastically different proposal from the original rule and doesn't consider our current or historic consumption rates. We request the Committee to send this proposal back to your staff based on the unacceptable health risks it carries to Tribal members and its direct impact on our subsistence lifestyle and Treaty reserved rights.

I'm going to shift gears here a bit and talk about something you may not have considered in this rule, even though we've raised this issue numerous times. The Fort Hall Reservation, located in Southeast Idaho, is the permanent homeland of the Tribes and we have Treatment as a State for the purposes of implementing the Clean Water Act. The Fort Hall Reservation is surrounded by impaired waters from the Portneuf, Blackfoot, and Snake River basins. According to your own reports, 27.9% of the IDEQ sampled stream miles were classified as in poor condition, not fully supporting cold water aquatic life, with some of the worst water conditions found in the Pocatello Region. Along with being listed on the 303(d) list, the Portneuf River is constant reminder to our Tribal membership of the real health risks that come with the consumption of

fish from our own reservation. The Portneuf River leaves the Reservation without any known environmental contaminants, then it meanders through private lands, past industrial sites and municipalities until it finally returns back onto the Reservation. After its journey through Southeast Idaho, the water quality is so bad that we have to put out signage advising our own members that there is a risk to their family if they eat fish caught from our own reservation. The Tribes are now in the process of drafting and approving water quality standards that will be more stringent than the criteria found in this final draft rule, thereby increasing the likelihood that we will find our respective entities unnecessarily in an adversarial relationship over water.

We also implore you to have a broader focus upon other forms of aquatic life. As the proposed rulemaking now reads, it focuses upon Water & Fish. It does not provide any water quality criteria for other forms of aquatic life. For example, aquatic plants are gathered by Tribal members for subsistence and cultural use. Plants gathered for cultural uses are likely bioaccumulating environmental pollution via water sources. Another example could occur with aquatic insects, as biomagnification could occur through predator-prey associations and dietary accumulation ultimately impacting Tribal members who make subsistence upon natural foods. This situation is especially likely to occur along the Snake River as it travels through the Fort Hall Bottoms of the Reservation where there is a high number of Tribal members making subsistence upon a diversity of natural foods. Combined the effects of environmental pollution puts the Tribes at-risks of exposure from not only fish, but other forms of aquatic life.

The Tribes also wanted comment on the assumptions of the Ambient Water Quality Criterion equation and lack of transparency of metrics used. For example, the TSD reference the “NWRG 2015” for body weight (BW) assumptions, but this reference is not listed in the References nor could we find this document anywhere. The BW calculation is an important metric and we feel it should be based upon the BW of children, a demographic that is highly sensitive to environmental pollution. The revisions to the proposed rule also do not clearly identify the Bioaccumulation Factor (BAF), or if the value of 66.5 g/day was used for the Fish Intake in the Idaho’s Technical Support Document for Human Health Criteria Calculations – 2015 (TSD). It is of utmost importance to clearly identify assumptions used in the calculations, and this has not been provided by the IDEQ. A lack of transparency on assumptions and values used in the calculations is likely a reflection hasty planning, and it is critically important to the Tribes that this rule making process be transparent on assumptions.

In addition to being at risks through fish consumption, we are now concerned with drinking water from streams after our sacred ceremonies. We drink our sacred water after recovering from arduous ceremonial events that require our abstinence of food and water for four days during the hottest time of the year. Our spiritual leaders are worried now that ingesting polluted waters after these types of ceremonies could have life threatening consequences. I know that most of us in this room can still remember the time when any of us could drink cold, clean water right out of the stream on a hot day; but the rule in front of you doesn’t bring us back to those days, it makes it a distant memory we won’t be able to pass on to our children and grandchildren. Because here is the truth ladies and gentlemen, the Snake River and most other rivers in Idaho have set new records over the past few years for low flows and high temperatures. This rule isn’t taking into consideration the impacts climate change will have on water quality and quantity, or how that will affect aquatic life in our State. The science is clear, increasing air temperatures

and water diversions will result in high instream temperatures in Idaho; water quality will be far worse in the years to come due to climate change and unsustainable resource management. Both of these effects will have major consequences for the aquatic ecosystem that we have made our subsistence upon since time immemorial. We need a rule that provides innovative direction for water allocation, protects water quality, preserves our cold water ecosystem, and implements a framework to improve our water resources; sadly, the rule in front of you today doesn't do any of those things.

Esteemed members of the Committee, you may disagree with me about the reasons we need firm regulations in Idaho; you may be thinking about financial impacts to industry or the hard choice to weigh the external costs of pollution to promote clean water. You may disagree with me about the Tribes perspective on this rule, but you cannot disagree with the facts. Water quality and the aquatic ecosystem are in peril throughout our State, my people who consume high amounts of fish from these waters are at a higher risk than ever before, and we have high hopes that you will be making the hard choices to set it right.

You have a choice before you right now. You can choose to send this rule back to your agency, have them bring back a new document that places a higher value not only upon human life, but the function and health of our freshwater ecosystems or you can rubber stamp what is in front of you today. The Tribes would like a rule that protects our waters and the aquatic systems that rely upon cold, clean water; now and forever, *esto perpetua* like your motto reads. Ladies and gentlemen, you have a choice in this moment to protect our waters, preserve our traditions, and promote a restoration of an aquatic ecosystem we've degraded over time. The Shoshone-Bannock Tribes encourages you to take this opportunity to send this rule back to the drawing board and bring back one that protects us all. Thank you for your time today.

Sincerely,

A handwritten signature in dark ink, appearing to be 'M Coby', written in a cursive style.

Marcus Coby, Fort Hall Business Council
Shoshone-Bannock Tribes



Nez Perce

TRIBAL EXECUTIVE COMMITTEE

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

Attachment 2
1/18/16

January 15, 2016

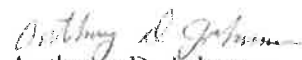
Senator Steve Bair, Chairman
Senate Resources and Environment Committee
Idaho Legislature
P.O. Box 83720
Boise, ID 83720-0081

Dear Chairman Bair and members of the Committee,

The Nez Perce Tribe would like to submit this letter and attached information to the Senate Resources and Environment Committee for the record of the hearing on the Idaho Department of Water Quality's proposed water quality standards (Docket No. 58-0101-1201) that are under review for final approval by the Idaho Legislature. The Nez Perce Tribe has participated extensively in the negotiated rulemaking process for the proposed water quality standards by conducting an extensive fish consumption study, the results of which were shared with Idaho, and reviewing and commenting on the various drafts of the rule. Unfortunately, the final rule under review does not reflect water quality standards and human health criteria the Nez Perce Tribe believes are necessary to protect the health and welfare of Nez Perce Tribal members who live and reside in the State of Idaho.

On December 10, 2015, the Nez Perce Tribe appeared before the Idaho Board of Environmental Quality to provide the attached testimony. This testimony expressed in detail the Tribe's concerns with the final proposed rule including the fact that the rule does not adequately protect treaty-reserved resources or allow for unsuppressed fish consumption practices. The Idaho Department of Environmental Quality also did not treat the Nez Perce Tribe as a general population target when promulgating this rule. The Tribe appreciates the Committee's review of its previous testimony today as it considers final approval of this rule.

Sincerely,


Anthony D. Johnson
Chairman

**Nez Perce Tribe Comment to Idaho Board of Environmental Quality
Regarding the State's Final Proposal and Water Quality Standards
(Docket No. 58-0102-1201)**

December 10, 2015

Samuel N. Penney

The Nez Perce Tribe (Tribe) appreciates the opportunity to provide the Idaho Board of Environmental Quality's the Tribe's comment on the IDEQ water quality standards. For the reasons below, as well as for the reasons set forth in previous comment letters the Tribe submitted as part of this docket that the Tribe incorporates by reference, the Tribe is very concerned about the consideration the Idaho Board of Environmental Quality is poised to make regarding water quality standards in the final proposal. The Tribe does not believe the final proposal will protect the health of the Nez Perce Tribe.

The Nez Perce Tribe's treaty-reserved fishing rights and fisheries in the Snake Basin continue to be critically important to the Tribe in maintaining and practicing its culture and ways of life. Implementation of treaty fisheries is consistent with the Nez Perce Tribe's legally enforceable treaty-reserved fishing rights and resources and with the United States' treaty and trust obligations and responsibilities to the Nez Perce Tribe.

As best as we can tell, IDEQ has not ensured protection of Treaty-reserved resources and rights of the Nez Perce Tribe in its final proposal on human health criteria and water quality standards, rather, their choices as reflected in the final proposal will undermine our treaty-reserved resources and rights. As IDEQ states in their response to questions, "DEQ does not agree that the treaty reserved fishing rights require DEQ to adjust the fish consumption rate or increase the protectiveness of criteria beyond that required by the CWA." This is not consistent with the guidance that the EPA has provided to the State regarding federal treaties, as an applicable law, that the State must consider when setting criteria to support the most sensitive fishing designated use in Idaho. Given this, the Tribe expects that EPA will comply with its treaty and trust obligations to the Tribe at the review and approval/disapproval phase once IDEQ submits its final application.

The Tribe supported the Environmental Protection Agency (EPA) providing the data from the Tribe's quantitative fish consumption survey to the IDEQ for their negotiated rulemaking process (this survey and data consists of two components: a food frequency questionnaire (FFQ) and the National Cancer Institutes (NCI) method). This Tribal survey data enables calculation of Nez Perce fish consumption rates (FCRs) and therefore helps provide key science information to this process. The Tribe's final report will provide credible, statistically valid and defensible estimations of our contemporary fish consumption rates that are representative of our Tribal members and of fish resources available to Tribal members for harvest and consumption. Contemporary FCRs are different from—and not a reflection of—unsuppressed, heritage fish consumption rates that have been documented for the Tribe in its Heritage Rate report.

The final Nez Perce Tribe report will provide fish consumption rates for two groups of fish, among others, these are as follows: "Group 1" (All finfish and shellfish) and "Group 2" (Near coastal, estuarine, freshwater and anadromous), including other fish species groups for informational purposes. The NPT Fish consumption survey provides data on the range of species types and amounts of those fish tribal members eat. "Group 1" and "Group 2" therefore are the best representation of the fish we eat. As part of its treaty-reserved fishing rights, Tribal members are not limited in the types of fish species it can eat. What combination of fish species represents NPT's total fish intake is a matter for the Tribe to decide. This is consistent with EPA's position on "market basket" preferences and the principle that "every state does its share to protect people who consume fish and shellfish that originate from multiple jurisdictions."

The Tribe appreciates that the IDEQ has altered its course somewhat in the final proposal. But the Tribe hasn't had sufficient time to evaluate these changes to the final rule or associated documents in the detail we would prefer. Our understanding is that the State is now including market fish and anadromous fish and will be using the Tribe's NCI "Group 2" fish. This is a positive sign that the State was willing to make this change so close to the presentation of its final proposal to this Board. However, the Tribe does not believe that these changes fully address our concerns and issues.

Only a FCR that reflects unsuppressed tribal fish consumption practices would support the NPT's Treaty-reserved resources and rights. Recognizing that any FCR lower than this is not adequate to ensure the treaty guarantees are met, the Tribe nonetheless cannot support a FCR for Idaho that is lower than one using the Tribe's NCI "Group 2" FCR at the 95th Percentile and at cancer risk level of 10^{-6} .¹ Thus, while this FCR, at 233.9 g/day reflects a compromise, it is a regulatory FCR that the Tribe could support for this rulemaking.

The Tribe expressly objects to a cancer risk level of 10^{-5} as we think this will result in an increase in risk to our tribal members that consume large quantities of fish, or at levels significantly higher than the regulatory FCR the IDEQ is contemplating in its final proposal. IDEQ is proposing to use the *mean* FCR of 66.5 g/d from the Nez Perce NCI "Group 2" fish coupled with a cancer risk level of 10^{-5} . This would equate to a 6.65 g/d FCR at a cancer risk level of 10^{-6} . If this is indeed the case then what IDEQ is proposing is in this final proposal is functionally no different from the 6.5 g/d FCR that the agency attempted to originally update. Under the current proposal, the cancer risk level increases but we understand that non-cancer risks will be decreased and become more stringent. Idaho has not provided any rationale for reducing the level of cancer risk protection that was previously used by the State. The potential reduction in cancer risk protection will increase the risk to the Nez Perce and other tribes.

The Tribe does not agree to, and in turn, objects to IDEQ using NPT fish consumption data in the way that they have. As we pointed out previously, salmon and other fish know no political boundaries, and our Tribal members exercise treaty-reserved fishing rights to fish in Oregon, Washington, and Idaho. To this end, we will continue to urge EPA to ensure that water quality standards are protective of tribal fish consumption levels and needs throughout the Northwest where its treaty rights apply.

¹ The Tribe's NCI "Group 2" FCR at the 95th Percentile is 233.9 g/day (this is supported by FFQ "Group 2" FCR at the 95th Percentile which is 327.9 g/day). Moreover, the fisher values for NCI "Group 2" FCR at the 95th Percentile which is 345.0 g/day (this is supported by FFQ "Group 2" FCR at the 95th Percentile which is 543.5 g/day).

In its May 29, 2015 letter on IDEQ's proposed human health criteria, EPA stated that "Government-to-government consultation with affected tribes is important in deciding which fish consumption data should be used." While a government-to-government consultation has not occurred between the State of Idaho and the Nez Perce Tribe, we continue to emphasize that fish consumption data from NCI "Group 2" at 95% Percentile is the appropriate data to use, and that the Tribe must be treated as the target general population.

In summary, The Tribe has provided input to IDEQ throughout the rulemaking process. The Tribe concludes that IDEQ's human health criteria and the final proposed rule in its present form do not remedy the key findings in EPA's May 2012 disapproval of the state's July 2006 water quality standards and should be re-evaluated, especially as it relates to the selected FCR and cancer risk level.

Thank you for considering the Tribe's comments on IDEQ's final proposal and this concludes my testimony today.

Sincerely,

A handwritten signature in cursive script, appearing to read "Samuel N. Penney".

Samuel N. Penney

Nez Perce Tribal Executive Committee (NPTEC)

Attachment 4
1/18/16



COEUR D'ALENE TRIBE

CHIEF J. ALLAN CHAIRMAN
P.O. BOX 408
PLUMMER, IDAHO 83851
(208) 686-5803 • Fax (208) 686-8813
email: chairman@cdatribe-nsn.gov

January 18, 2016

Senator Steve Bair, Chairman
Senate Resources and Environment Committee
Idaho Legislature
PO Box 83702
Boise, ID 83702

RE: Docket No. 58-0102-1201 – Idaho's Proposed Water Quality Standards

Dear Chairman Bair and Members of the Committee:

The Coeur d'Alene Tribe would like to take this opportunity to submit this letter for today's hearing regarding Idaho Department of Environmental Quality's (DEQ) proposed water quality standards. Throughout the negotiated rulemaking process, the Coeur d'Alene Tribe, along with other Idaho tribes, has clearly and consistently communicated the need to protect tribal members that currently and/or in the future intend to consume fish at subsistence levels. Unfortunately, DEQ has proposed water quality standards for Idaho's waters that result in substantially reduced levels of protection for tribal members and other fish consumers.

It is our understanding that DEQ is proposing using the "mean" fish consumption rate from the Nez Perce Group 2 study of 66.5 grams/day. However, DEQ has also proposed increasing the allowable cancer risk by a factor of 10 by reducing the cancer risk level from 10^{-6} to 10^{-5} . The net effect of these rates produces an effective proposed fish consumption rate of 6.65 g/d (less than $\frac{1}{4}$ of 1 ounce) which is almost identical to the previous fish consumption rate proposed by Idaho and rejected by EPA.

The Coeur d'Alene Tribe has and continues to restore native fisheries with the ultimate goal of fully reestablished stocks of native resident and anadromous fish within and near the Reservation. If Idaho's proposed standards are put in place, these fisheries will not be safe to consume at subsistence levels which will jeopardize the health of tribal members and undermine our restoration objectives.

Along with the other Idaho Tribes, Tribal organizations, EPA, and others, we have been actively involved during this rule making process. Interestingly, the culmination of the rule making process still produced a proposed water quality standard that appears to be far less than the federally required minimum. If approved, the rule will very likely be again rejected by the EPA and Idaho will either end up starting over or in litigation. This futile exercise, however, could have been and still can be avoided. We encourage Idaho to reconsider its proposed fish consumption rate for one which would be more protective of subsistence and higher quantity fish consumers, tribal and non-tribal alike, throughout Idaho.

Thank your for your consideration of this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chief J. Allan".

Chief J. Allan
Chairman
Coeur d'Alene Tribe

Cc: Senate Resources and Environment Committee

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 20, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|--|--|---|
| DEPARTMENT OF ENVIRONMENTAL QUALITY | | |
| Docket No. 58-0102-1201 | Water Quality Standards | Barry Burnell, Water Quality Division Administrator, DEQ |
| Docket No. 58-0102-1501 | Water Quality Standards | Barry Burnell |
| Docket No. 58-0111-1501 | Ground Water Quality Rule | Barry Burnell |
| Docket No. 58-0104-1501 | Rules for Administration of Wastewater Treatment Facility Grants | Barry Burnell |
| Docket No. 58-0112-1501 | Rules for Administration of Water Pollution Control Loans | Barry Burnell |
| Any rule that is not heard today will be heard on Friday, January 22. | | |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 20, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. and said that hearing of the Department of Environmental Quality (DEQ) rules would continue.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick. **Vice Chairman Vick** called on Mr. Barry Burnell, Water Quality Division Administrator for DEQ, to present the rule.

DOCKET NO. 58-0102-1201 **WATER QUALITY STANDARDS** Mr. Burnell provided a Power Point presentation relating to this rule. He stated that his presentation would include the Human Health Criteria (HHC) rule history; rulemaking schedule; fish consumption survey; policy development; and rule review.

Mr. Burnell said that in 2004, the Oregon DEQ submitted their rule to the Environmental Protection Agency at a consumption rate of 17.5 grams of fish per day. In April 2005, the Idaho DEQ announced rulemaking, held negotiated rulemaking meetings, and published a proposed rule. The rule shifted from 6.5 grams per day to 17.5 grams per day, the EPA's nationally recommended Fish Consumption Rate (FCR). The EPA applauded the Idaho DEQ's rulemaking. In November 2005, the board of the DEQ adopted the rule.

The Idaho Legislature approved the rule in 2006. In July 2006, the rule was submitted to the EPA. Oregon's rule was disapproved by the EPA in 2010. In 2011, the EPA approved the Oregon DEQ's revised HHC, which was based on the FCR of 175 grams per day. On May 10, 2012, the EPA disapproved the Idaho DEQ's Human Health Toxics Criteria, which was based on an FCR of 17.5 grams per day.

The DEQ started rulemaking in August 2012. They evaluated their existing data and found it to be limited in scope for Idaho residents, old and of questionable quality.

Following is the schedule for DEQ's rulemaking:

- FCR survey development – 2012-2013
- FCR survey implementation – 2014-2015
- Policy discussions – 2013-2015
- Data Analysis – August 2015
- Proposed rule – October 2015
- Board review – December 2015
- Legislative review – January 2016

DEQ's rulemaking actions included eight meetings related to the fish consumption survey design (2012-13), for which public comments were taken. The 2013 Legislature provided \$300,000 for creation and implementation of the survey. In 2014-2015, the surveys included the general population and Idaho resident anglers. The EPA sponsored a tribal members survey: FCR's - Nez Perce and Shoshone-Bannock. Heritage rates - Kootenai, Coeur d'Alene, Shoshone-Paiute, Nez Perce and Shoshone-Bannock.

The National Cancer Institute (NCI) conducted a survey of fish consumption (grams per day) and arrived at the following: (Idaho - All Fish/Tribal Group 2)

| POPULATION | 50% | MEAN | 75% | 90% | 95% | 99% |
|------------------|------|------|------|------|------|------|
| Idaho Total | 14.2 | 22.0 | 79.7 | 51.1 | 67.7 | 118 |
| Idaho Angler | 15.9 | 26.5 | 36.9 | 64.6 | 86.4 | 146 |
| Nez Perce | 36.0 | 66.5 | 81.7 | 159 | 234 | — |
| Shoshone-Bannock | 6.5 | 18.6 | 20.0 | 48.9 | 80 | — |
| EPA 2014 | 5.0 | — | 11.4 | 22.0 | 31.8 | 61.1 |

- 6.5 grams per day equals a 7-ounce meal once a month
- 17.5 grams per day equals a 4.3-ounce meal once a week
- 66.5 grams per day equals a 4.7-ounce meal every other day
- 175 grams per day equals a 6-ounce meal every day.

Mr. Burnell also stated that these fish consumption rates are based on eating fish over a 70-year time period, and would increase the risk of cancer by 1 in 100,000 people.

The time frame for HHC policy decisions/papers:

1. Fish Consumer or Non-consumers (Oct. 2013)
2. General Population or Targeted Subpopulation (Dec. 2013)
3. Probabilistic Risk Assessment or Deterministic Assessment (April 2014)
4. Market Fish or Local Fish and Relative Source Contribution (May 2014)
5. Anadromous Fish (July 2014)
6. Suppression (October 2014)
7. Risk Management and Protection of Public Health (Dec. 2014)
8. Implementation Strategies (March 2015)

The data analysis conducted in 2015 included information from NCI, deterministic calculations and the probabilistic risk assessment. With respect to risk for carcinogens, the EPA's guidance allows states to choose from a range of 10^{-5} to 10^{-6} for the incremental increase in cancer risk used in calculating criteria for the general population. Higher consumers are protected at 10^{-4} or lower. Idaho has chosen to use an incremental increase in cancer risk level of 10^{-5} . The general population is generally at a lower risk. Six hundred sixty five (665) grams per day would be at a risk level of 10^{-4} and the risk can never be made the same for everyone.

The information presented in the proposed rule is necessary to protect human health and to fully satisfy the Clean Water Act (CWA) water quality standards. The consequences of the EPA's disapproval would be that the EPA must promulgate a rule for Idaho if DEQ fails to take action. The pending rule is the State's response. The Idaho Conservation League (ICL) issued a Notice of Intent to sue the EPA, and the EPA agreed to start rulemaking for Idaho late in 2016 if Idaho does not adopt a rule.

TESTIMONY: **Mr. Justin Hayes**, Program Director, ICL, complimented the DEQ for their questions regarding science and policy. However, he is not in favor of the rule as it is not favorable to the tribes. He anticipates that the EPA will deny the rule.

TESTIMONY: **Mr. Jim Werntz**, Director of the EPA's Idaho office, testified. He also indicated that the rule is not favorable to the tribes and that most states place the cancer risk at 10^{-6} , whereas Idaho has placed it at 10^{-5} . **Mr. Werntz** stated that selecting a higher fish consumption rate does essentially protect all Idahoans, not just the tribal people, by raising the bar of higher consumers. As a matter of policy, the EPA states their concerns and respects the process the state is in; and their decision will come later. An important part of their evaluation will be what the state brings forth as to the rationale of their decisions.

MOTION: **Senator Siddoway** made the motion to approve **Docket No. 58-0102-1201**. **Chairman Bair** seconded the motion. During the discussion, Senator Stennett said she would not be supporting the motion because she has a problem with the formula and is also concerned about the state's water supply and public health. The motion carried by **voice vote**. Senator Stennett asked to be recorded as voting **nay**.

PASSED THE GAVEL: Vice Chairman Vick returned the gavel to Chairman Bair.

ADJOURNED: **Chairman Bair** announced that the remaining DEQ rules would be heard on Friday, January 22. He then adjourned the meeting at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Friday, January 22, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---|--|--|
| OUTFITTERS AND GUIDES LICENSING BOARD | | |
| Docket No. 25-0101-1501 | Rules of the Idaho Outfitters and Guides Licensing Board | Jake Howard, Executive Director, OGLB |
| IDAHO DEPARTMENT OF PARKS AND RECREATION | | |
| Docket No. 26-0106-1501 | Rules Governing Cooperator Recognition and Sale of Advertising | Anna Canning, Management Services Administrator, IDPR |
| DEPARTMENT OF ENVIRONMENTAL QUALITY | | |
| Docket No. 58-0102-1501 | Water Quality Standards | Barry Burnell, Water Quality Division Administrator, DEQ |
| Docket No. 58-0111-1501 | Ground Water Quality Rule | Barry Burnell |
| Docket No. 58-0104-1501 | Rules for Administration of Wastewater Treatment Facility Grants | Barry Burnell |
| Docket No. 58-0112-1501 | Rules for Administration of Water Pollution Control Loans | Barry Burnell |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, January 22, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn and Stennett

ABSENT/ EXCUSED: Senator Lacey

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick.

Vice Chairman Vick welcomed Jake Howard, Executive Director of the Idaho Outfitters and Guides Licensing Board (OGLB), who presented the rule.

DOCKET NO. 25-0101-1501 **Rules of the Idaho Outfitters and Guides Licensing Board. Mr. Howard** stated that the purpose of the rule is to update the rule that was put into place in 1992 by clarifying boating access points and guide limits on river sections. The OGLB licenses outfitter businesses that provide boating and fishing services to the public on the South Fork of the Snake River, a section of the Henry's Fork of the Snake River, a section of the Snake River above Idaho Falls and a section of the Teton River.

Mr. Howard said that the rule clarifies individual use areas and conforms state licensed outfitter boating limits on these four river sections in Eastern Idaho, with federal permit requirements to be established. It also grandfathers in one outfitter historically licensed for waterfowl hunting on a portion of the South Fork of the Snake River. No fees or charges are being increased or imposed in this rulemaking, and no fiscal impact will occur.

This rule was developed as a result of collaboration with the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS); 246 comments were received. The main concern was the congestion that occurs primarily on the South Fork of the Snake River. **Mr. Howard** indicated that the outfitting industry supports this rule.

The Teton River rule was authored by an outfitter, who is now deceased. One primary change addresses the use of jet boats on a stretch of the South Fork of the Snake River that is now used exclusively for float boats. It was initiated by the outfitters, partially due to the congestion that occurred.

Senator Nuxoll asked if this rule would reduce the outfitters' income in any way, and would it affect the state's income from this occupation? **Mr. Howard** said that the state receives no income from the activities, just fees from the licensing process. There is no reduction to the income that an outfitter would receive, and it would be favorable to the industry.

Senator Heider inquired if the rule would affect the general public, who are not licensed guides or outfitters, as to the limit of people they might take. **Mr. Howard** replied there is no limit that relates to the general public.

MOTION: **Senator Heider** moved to approve **Docket No. 25-0101-1501**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 26-0106-1501 **Rules Governing Cooperator Recognition and Sale of Advertising.** **Anna Canning**, Management Services Administrator, Idaho Department of Parks and Recreation (IDPR), presented this rule. She stated that the 2015 Legislative Session passed S 1089aa that authorized the Board of IDPR to enter into agreements to secure long-term funding sources, to recognize cooperators and for the sale of advertising. The intent of this rule is to fulfill the request made last year by this Committee to write a rule.

Ms. Canning said this rule has two main provisions. They are cooperator recognition (which includes the naming rights) and the sale of advertising. The provision for the sale of advertising is based on a policy IDPR has had since 2013. The provisions for cooperator recognition is based on the naming rights policy of the Board of IDPR and is also in the agency's sponsorship policy, which has been in place since 2013.

In the naming section, **Ms. Canning** pointed out that they do differentiate between units and parks. Units are thought of as a camping area, and IDPR works with sponsors and cooperators to name units. Final approval for park names resides with the legislature.

Negotiated rulemaking meetings were held in Coeur d'Alene, Idaho Falls and Boise, with no public comments received. No fiscal impact is expected, and IDPR hopes, in their ongoing efforts, to provide additional revenue sources.

Senator Hagedorn inquired if there is language in the rule that would allow IDPR to force the people who have signs to repair them, should they become damaged or are in need of repair. **Ms. Canning** replied that they do have the ability to require the needed repairs.

Senator Stennett asked if the contracts are written to cover not only damage but vandalism. **Ms. Canning** said it is covered in the recognition plan, and IDPR would have the option to enforce it.

Senator Nuxoll said that since this rule would allow positive effects, will it be possible to reduce the basic fees into the parks and has it been addressed? **Ms. Canning** said IDPR still struggles with the maintenance backlog within all the parks and this effort will hopefully provide resources to fill that gap.

Chairman Bair asked for clarification regarding advertising from vendors. **Ms. Canning** said that IDPR cannot endorse products, and that is the intent as indicated in 052.02.a, page 66 of the rule book.

Senator Siddoway inquired as to what kinds of advertising would be allowed and also the size of signs and placements. **Ms. Canning** stated that she wrote a framework consisting of a 17-page document addressing size of signs relative to amount of donation. She indicated that they need to be proportionate to one another. **Senator Siddoway** said that it should be tastefully done and not take away from the park experience. **Ms. Canning** said there were concerns about visual clutter and there is a provision in the rule pertaining to that issue.

Senator Heider inquired if legal counseling was obtained regarding paragraph 06, Right to Refuse, on page 67 of the rule book. **Ms. Canning** replied that she did have their legal staff review it and some revisions were made. **Ms. Canning** provided a picture of a donor recognition plaque that is in place at the Horsethief Reservoir, State Park Visitor Center.

MOTION: **Senator Siddoway** moved to approve **Docket No. 26-0106-1501**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**DOCKET
NO:
58-0102-1501**

Water Quality Standards. **Barry Burnell**, Water Quality Division Administrator, Department of Environmental Quality (DEQ), presented the rule. This rule - Use Attainability Analysis (UAA) - was undertaken in response to the Legislative Office of Performance Evaluations (OPE) report of July 2014. They received their direction from the Joint Legislative Oversight Committee to undertake an audit of the DEQ Water Quality Trading and Use Attainability Analysis (UAA) programs that are part of the Surface Water Program. OPE conducted the audit and recommended to the legislature that the DEQ complete its UAA guidance document. The DEQ's reply was that the UAA guidance document did not have a basis in state rules and that the DEQ would undertake rulemaking to correct this deficiency. **Mr. Burnell** said the outcome is the rule that is before the Committee today. Not adopting this rule will prohibit the DEQ from meeting the OPE recommendation.

The intent of the rule is to provide a regulatory structure for conducting Use Attainability Assessments. The language used in this rule comes from the federal Clean Water Act. It also provides the DEQ with a basis to develop a guidance document to assist in the development of UAAs.

Negotiated rulemaking meetings were held in Boise, Coeur d'Alene and Pocatello. Participants included the Idaho Water Users Association (IWUA), canal companies, engineering firms, the Nez Perce Tribe and the Environmental Protection Agency (EPA). Modifications were made to the rule and the rule was posted August 5, 2015, for public comment. Comments were received from EPA, Idaho Conservation League (ICL) and IWUA. No changes were made to the rule.

Mr. Burnell stated that there are no controversial issues or contentious elements of the rule as the rule combines language from Idaho Code and the Clean Water Act. Regarding the stringency issue, the standards are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

MOTION: **Senator Hagedorn** moved to approve **Docket 58-0102-1501**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**DOCKET
NO.
58-0111-1501**

Ground Water Quality Rule. **Mr. Burnell** said this rulemaking was initiated to revise the Ground Water Quality Rule as directed by the 2015 Legislature under 2015 **H 197**, which amended Idaho Code § 39-102. That bill clarified that degradation of ground water caused by mining activities was allowed within a point of compliance as long as the mine operator implemented best management practices. The rule revised sections 150, 301, 400 and 401 to accomplish this direction. 2015 **H 197** had an emergency clause in it that required the DEQ Board to adopt a temporary rule by June 1, 2015, which the Board did at its May 20, 2015, meeting.

The DEQ posted and published the temporary rule to the DEQ rulemaking website. The DEQ worked with the sponsor of 2015 **H 197** to develop the proposed temporary rule language. After Board approval, DEQ undertook the normal administrative procedures process for rulemaking. Only three comments were received, and no changes to the rule were made.

Mr. Burnell stated that there are no anticipated costs to the regulated community and no costs to the agency. Also, no controversial issues were expressed during rulemaking. This rule is necessary to be compliant with 2015 **H 197**. As far as stringency goes, **Mr. Burnell** said that they undertake direction from the Idaho Legislature.

Senator Nuxoll inquired as to who is accountable for the processing facilities clean-up of the silver mines in Shoshone County and who is responsible for enforcement. **Mr. Burnell** said the mining point of compliance rule was developed and it replaced the active mineral extraction exemption that was previously in the rule. When the mining areas were developed, they didn't include processing facilities because processing is not the extraction of the mineral.

Vice Chairman Vick inquired as to the difference between best management practices and best practical methods. **Mr. Burnell** responded by saying the language "to the maximum extent practical" comes from Idaho Code. When one sees "best management practices," it is meant to imply there is a higher level of DMD's implemented in the resource.

MOTION: **Chairman Bair** moved to approve **Docket No. 58-0111-1501**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0104-1501 **Rules for Administration of Wastewater Treatment Facility Grants.** **Mr. Burnell** said this rulemaking was initiated in order to comply with revisions to the State Revolving Fund portion of the Clean Water Act, passed by Congress on May 20, 2014. The Water Resource and Recovery Development Act revisions require that facility plans include a justification that the selected alternative maximizes the potential for efficient water use, reuse, recapture and conservation, and energy conservation. The current rules only require that the selected alternative be cost effective and environmentally sound.

The DEQ published the initial draft rule to the "Idaho Administrative Bulletin" and requested comments. No comments were received. The DEQ invited stakeholders to a negotiated rulemaking session and no stakeholders attended. The DEQ posted the final draft rule and again requested comments; no comments were received. The DEQ presented the rule to the Association of Idaho Cities and the Association of Consulting Engineering Companies. Both supported the rule. As to the estimated cost, the regulated community should experience reductions in their operations and maintenance costs by selecting alternatives that are more efficient and use less energy. **Mr. Burnell** stated that there were no controversial issues or stringency issues.

MOTION: **Senator Stennett** moved to approve **Docket No. 58-0104-1501**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0112-1501 **Rules for Administration of Water Pollution Control.** **Mr. Burnell** said this rulemaking was initiated in order to comply with revisions to the State Revolving Fund portion of the Clean Water Act, passed by Congress on May 20, 2014. The Water Resource and Recovery Development Act revisions require that State loan rules must also include unemployment and population into its Disadvantaged Loan criteria.

Again, the DEQ published the initial draft rule; no comments were received. They invited stakeholders to a negotiated rulemaking session and none attended. When the final draft rule was posted and comments requested, none were received. The DEQ presented the rule to the Association of Idaho Cities and the Association of Consulting Engineering Companies. Both supported the rule.

The rule revises one section of the Water Pollution Control Loans rule. It creates two tiers of median household income impact. If the impact (of paying for the loan) on rate payers exceeds 2 percent of median household income, then the community will qualify as disadvantaged. If the impact on rate payers is between 1.5 percent and two percent, then the community must also have a decreasing population base and unemployment that exceeds the state average.

MOTION: **Senator Nuxoll** moved to approve **Docket No. 58-0112-1501**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PASSED **Vice Chairman Vick** passed the gavel to Chairman Bair.
THE GAVEL:

Chairman Bair thanked Mr. Burnell for his presentation of the DEQ's rules.

ADJOURNED: There being no further business, **Chairman Bair** adjourned the meeting at 2:32 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 25, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---|---|--------------------------------------|
| S 1197 | Mines, reclamation activities | Jack Lyman, Idaho Mining Assoc. |
| RS23980 | Clarifies that hunting use restrictions for motorized vehicles and aircraft includes unmanned aircraft systems (drones) | Sharon Kiefer, Deputy Director, IDFG |
| IDAHO DEPARTMENT OF FISH AND GAME | | |
| Docket No. 13-0102-1501 | Rules Governing Hunter Education and Mentored Hunting | Sharon Kiefer |
| Docket No. 13-0108-1501 | Rules Governing the Taking of Big Game Animals in the State of Idaho | Sharon Kiefer |
| Docket No. 13-0108-1502 | Rules Governing the Taking of Big Game Animals in the State of Idaho | Sharon Kiefer |
| Docket No. 13-0109-1501 | Rules Governing the Taking of Game Birds in the State of Idaho | Sharon Kiefer |
| Docket No. 13-0109-1502 | Rules Governing the Taking of Game Birds in the State of Idaho | Sharon Kiefer |
| Docket No. 13-0111-1501 | Rules Governing Fish | Sharon Kiefer |
| Docket No. 13-0111-1502 | Rules Governing Fish | Sharon Kiefer |
| Docket No. 13-0117-1501 | Rules Governing the Use of Bait and Trapping for Taking Big Game Animals | Sharon Kiefer |
| Any Rule that is not heard today will be heard on Wednesday, January 27. | | |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
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Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 25, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. He welcomed Jack Lyman to present **S 1197**.

S 1197 **Mr. Lyman**, Executive Vice President, Idaho Mining Association (IMA), said that the IMA has represented the interests of the state's mining industry before the legislature for more than 110 years. He then presented **S 1197**, which revises certain required reclamation activities. Mr. Lyman provided a PowerPoint presentation to augment his talk (see attachment 1).

Mr. Lyman stated that the Surface Mining Act was originally passed in 1971. The Act required that surface mine operators post a performance bond to assure they would complete reclamation of the mine once mining was completed. Those bonds were to be set at the estimated cost for a third party to complete the reclamation work in the absence of the mine operator, plus an additional 10 percent.

The original bill set a mandatory cap of \$500 per acre for those performance bonds, and the Idaho Department of Lands (IDL) could not require a reclamation performance bond in excess of \$500 per acre. Over the years, that mandatory cap on bonding levels was increased and eventually rose to \$1,800 per acre.

Mr. Lyman said that in 1996, concerns arose regarding the impending patenting of the land encompassing the Thompson Creek Mine in Custer County. Patenting would convert that land to private ownership from federal ownership. State and federal officials, including Congressman Mike Crapo, and legislators, particularly Senator Laird Noh, were concerned that the Idaho law might leave mines on private lands either unregulated or under-regulated.

The IDL proposed legislation to address that situation. The final terms of that bill were negotiated by the IDL, the IMA, the Idaho Conservation League (ICL), Senator Noh (then Chairman of the Senate Resource and Environment Committee) and Senator Clint Stennett (then Minority Leader).

Several provisions were requested by the ICL, at the time, including: 1) IDL be given operating plan review and approval authority for plans that weren't subject to review and approval by federal land management agencies; 2) a statutory definition of reclamation that addresses waste characterization and waste management; 3) IDL be given authority to periodically adjust bonding levels when there were material changes in mining operations; and 4) elimination of the \$1,800-per-acre cap on reclamation bonds.

The IMA was concerned about the existing mines that had been bonded under the existing law. They were also concerned about the IDL requiring very large bonds without an opportunity to appeal those bond levels directly to the Land Board. The IMA agreed to the ICL provisions and asked for the following in return: 1) bonds for the existing mines would be grandfathered from the new bonding requirements for five years; and 2) operators would have a right to a hearing before the Land Board whenever a proposed bond was greater than \$2,500 per acre.

With that agreement between the ICL and the IMA, the IDL's bill became **S 1136**. It was sponsored by Senator Noh, passed the 1997 Legislature unanimously and was signed into law by Governor Phil Batt. Now, a \$2,500-per-acre bond level no longer represents a "large" bond. **S 1197** would increase that threshold bonding level to \$15,000 per acre.

The current law provides a process for an operator to request the return of a reclamation performance bond once the approved reclamation plan has been completed. The law specifies what happens when the IDL determines the plan has been successfully completed. It returns the bond to the operator. The law does not specify what happens when the IDL determines the plan has not been successfully completed. **S 1197** adds a new provision that specifies that IDL will notify the operator, in writing, when it determines the reclamation plan has not been successfully completed. That written notice will address the reasons for the rejection and what the operator needs to do to come into compliance. A similar provision is added in regard to the permanent closure bonds associated with facilities that use cyanide. **Mr. Lyman** said that these changes have been discussed with the IDL and they have expressed no concerns.

Mr. Lyman indicated that the current law is in conflict with the state's anti-degradation policy. **S 1197** amends the 1971 Surface Mining Act to eliminate that conflict.

TESTIMONY: **Eric Wilson**, Bureau Chief, Resource Protection and Assistance, IDL, testified in support of this bill.

MOTION: **Senator Siddoway** moved that **S 1197** be sent to the floor with a **do pass** recommendation. **Senator Lacey** seconded the motion. The motion carried by **voice vote**. Senator Lacey will be the floor sponsor.

RS 23980 **Sharon Kiefer**, Deputy Director, Idaho Department Fish and Game (IDFG) presented **RS 23980**. It amends section 36-1101 to clarify that hunting use restrictions for motorized vehicles and aircraft include unmanned aircraft systems (drones).

MOTION: **Senator Heider** moved to print **RS 23980**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick.

Vice Chairman Vick said that the rules of IDFG would be presented by Ms. Kiefer.

DOCKET NO. 13-0102-1501 **Rules Governing Hunter Education and Mentored Hunting.** **Ms. Kiefer** said that the purpose is to clarify the limits of the Hunting Passport for eight-year-old children to allow a second passport at age nine.

MOTION: **Senator Siddoway** moved to approve **Docket No. 13-0102-1501**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0108-1501 **Rules Governing the Taking of Big Game Animals in the State of Idaho.** This rule is to clarify the disabled hunters who are eligible for designated hunter companion exceptions, and to clarify the eligibility of senior and disabled hunters to purchase leftover youth-controlled hunt tags.

MOTION: Senator Siddoway moved to approve **Docket No. 13-0108-1501**. Senator Nuxoll seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0108-1502 **Rules Governing the Taking of Big Game Animals in the State of Idaho.** The purpose of this rule is to clarify eligibility requirements for controlled hunt tags designated to a child or grandchild, and to make technical corrections.

MOTION: Senator Heider moved to approve **Docket No. 13-0108-1502**. Senator Hagedorn seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0109-1501 **Rules Governing the Taking of Game Birds in the State of Idaho.** The purpose of this rule is to increase goose hunting opportunities in the Hagerman Valley and to help reduce goose conflicts with agricultural producers. The goose hunting closure in the Hagerman Valley in Gooding and Twin Falls Counties is partially rescinded.

MOTION: Senator Hagedorn moved to approve **Docket No. 13-0109-1501**. Senator Stennett seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0109-1502 **Rules Governing the Taking of Game Birds in the State of Idaho.** This rule would allow one new method of take (crossbow) for forest grouse, which is already an approved method of take for certain other big game species in general hunts, so the weapon allowance does not represent new weaponry or new technology.

MOTION: Senator Nuxoll moved to approve **Docket No. 13-0109-1502**. Senator Heider seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0111-1501 **Rules Governing Fish.** This rule establishes specific conditions to allow the removal of the heads and tails of trout, bass and tiger muskie for transit.

MOTION: Senator Nuxoll moved to approve **Docket No. 13-0111-1501**. Senator Heider seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0111-1502 **Rules Governing Fish.** This rule would allow take and possession of coho salmon with an intact adipose fin in the Clearwater River drainage. Additionally, the rules are updated and obsolete language removed before the printing of the next triennial seasons brochure.

MOTION: Senator Nuxoll moved to approve **Docket No. 13-0111-1502**. Chairman Bair seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0117-1501 **Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.** This rule clarifies the definition of roads as related to the placement of black bear baiting sites.

MOTION: Senator Heider moved to approve **Docket No. 13-0117-1501**. Senator Siddoway seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Vick passed the gavel to Chairman Bair.

Chairman Bair thanked Ms. Kiefer and the Committee for their work regarding the rules. He said that it had been announced that the last rule for IDFG would be heard on Wednesday. It has been postponed until further notice.

ADJOURNED: Chairman Bair adjourned the meeting at 2:25 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

Attachment 1
1/25/16

1/25/16

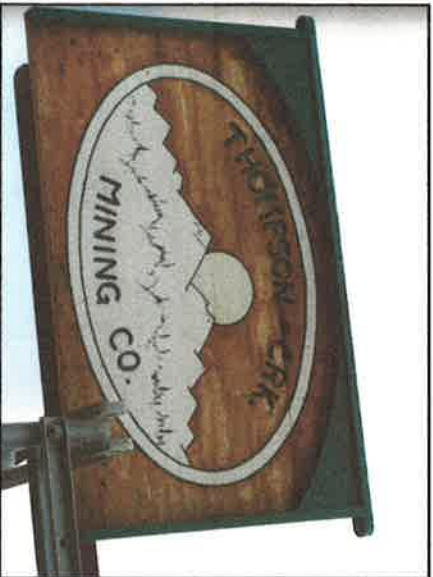
IDAHO SURFACE MINING ACT

TITLE 47 CHAPTER 15

STATUTE REQUIRES FULL COST BONDING

+

10%



ICL WANTED

- *The Department of Lands to have operating plan review and approval authority for plans that weren't subject to review and approval by federal land management agencies;*

ICL WANTED

- *Gave the Department of Lands operating plan review and approval authority for plans that weren't subject to review and approval by federal land management agencies;*
- *A statutory definition of reclamation which addressed waste characterization and waste management;*

ICL WANTED

- Gave the Department of Lands operating plan review and approval authority for plans that weren't subject to review and approval by federal land management agencies.
- Provided a statutory definition of reclamation which addressed waste characterization and waste management.
- **The Department of Lands to have authority to periodically adjust bonding levels when there were material changes in mining operations;**

ICL WANTED

- Gave the Department of Lands operating plan review and approval authority for plans that weren't subject to review and approval by federal land management agencies.
- Provided a statutory definition of reclamation which addressed waste characterization and waste management.
- **The Department of Lands to have authority to periodically adjust bonding levels when there were material changes in mining operations.**
- **Elimination of the \$1,800 per acre cap on reclamation bonds.**

IMA WANTED

- **Grandfathering of existing bonds for five years;**

IMA WANTED

- *Provided that the application of new bonding requirements to existing bonds would be delayed for five years;*
- **The right to a hearing before the Land Board for proposed bonds in excess of \$2,500.**

S. 1136

ENACTED 1997



S. 1197

INTRODUCED IN THE 2016
LEGISLATURE

(c) Except as provided in this subsection, no bond for reclamation submitted pursuant to this chapter shall exceed ~~two~~ fifteen thousand ~~five hundred dollars (\$5,500)~~ \$15,000 for any given acre of such affected land. The board may require a bond in excess of ~~two~~ fifteen thousand ~~five hundred dollars (\$5,500)~~ \$15,000 for any given acre of affected land only when the following conditions have been met:

(1) The board has determined that such bond is necessary to meet the requirements of sections 47-1506, 47-1509, 47-1510 and 47-1511, Idaho Code.

(2) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary.

(3) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived, in writing, by the operator. Any hearing held shall, at the discretion of the director, extend the time, up to thirty (30) days, in which the board must act on a plan submitted.

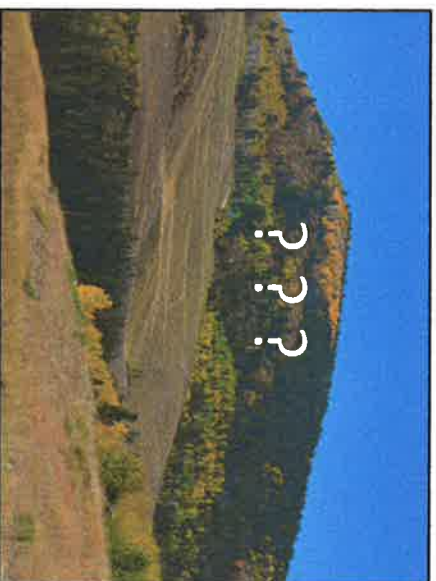
(1) Upon the determination by the board that the requirements of the reclamation plan in question have been met as to said lands, the amount of bond in effect as to such lands shall be reduced by an amount designated by the board to reflect the reclamation done.

(2) Upon a determination by the board that the requirements of the reclamation plan in question have not been met as to said lands, it shall deliver to the operator, in writing, a notice of rejection of the request for bond release and shall set forth in said notice the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the reclamation fails to fulfill the requirements of the reclamation plan, and the changes necessary to comply with the requirements of the reclamation plan.

(1) Upon the determination by the board that the activity meets the requirements of the permanent closure plan, the bond for permanent closure shall be reduced by an amount designated by the board to reflect the activity completed.

(2) Upon a determination by the board that the requirements of the permanent closure plan in question have not been met as to said lands, it shall deliver to the operator, in writing, a notice of rejection of the request for bond release and shall set forth in said notice the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the activity fails to fulfill the requirements of the permanent closure plan, and the changes necessary to comply with the requirements of the permanent closure plan.

(4) Where water run-off from affected lands results in stream or lake siltation in excess of that which normally results from run-off, the operator shall prepare affected lands and adjacent premises under the control of the operator as necessary to meet the requirements authorized under chapter 1, title 39, Idaho Code, ~~or the conditions of the water run-off prior to commencing surface mining or exploration operations, whichever is the lesser standard.~~



AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 27, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|-----------------------------------|---|---|
| <u>RS24202</u> | Clarifies that nonirrigators who join a ground water district for mitigation purposes only may be subject to all mitigation plans and activities of the district. | Lynn Tominaga, Ex. Dir., Idaho Ground Water Appropriators |
| <u>RS24203</u> | Gives ground water districts the ability to contract with nonmembers who wish to participate in and obtain the benefits of the district's mitigation plans. | Lynn Tominaga |
| <u>RS24204</u> | Enables ground water districts to impose assessments based on the number of acres authorized to be irrigated. | Lynn Tominaga |
| <u>RS24205</u> | Clarifies that ground water districts may incur short-term debt without holding an election. | Lynn Tominaga |
| <u>RS24141</u> | To increase the reimbursable damage penalties assessed by magistrates to any person guilty of the illegal killing, illegal possession, or illegal waste of certain species of big game. | Senator Hagedorn |
| Gubernatorial Appointment Hearing | Louise D. Stark, Challis, Idaho was re-appointed to the Outfitters and Guides Licensing Board to serve a term commencing April 20, 2015 and expiring April 20, 2018. | |
| Gubernatorial Appointment Hearing | Daniel A. Blanco, Moscow, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing September 10, 2015 and expiring June 30, 2019. | |
| Gubernatorial Appointment Hearing | Derick Eldon Attebury, Idaho Falls, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing September 10, 2015 and expiring June 30, 2019. | |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Bair | Sen Bayer |
| Vice Chairman Vick | Sen Hagedorn |
| Sen Siddoway | Sen Stennett |
| Sen Heider | Sen Lacey |
| Sen Nuxoll | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 27, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

Chairman Bair announced that the Committee members had been given the Idaho Rangeland Resource Commission 2015 Report from Gretchen Hyde, Executive Director. **Chairman Bair** reminded the Committee to review the report as it takes the place of a presentation, which is required by statute.

Chairman Bair welcomed Lynn Tominaga, Executive Director, Idaho Ground Water Appropriators, Inc. (IGWA), who presented four pieces of legislation.

RS 24202 **Mr. Tominaga** said **RS 24202** amends the Ground Water District Act, Chapter 52, Title 42, Idaho Code, to place irrigators and non-irrigators on equal footing by clarifying that non-irrigators who join a ground water district for mitigation purposes may be subject to all mitigation plans and activities of the district. He stated that several ground water districts have implemented multiple mitigation plans, many of which provide overlapping and compound benefits. For practical reasons, districts must have the ability to require both their irrigator and non-irrigator members to participate in all mitigation plans and activities the members benefit from.

MOTION: **Senator Hagedorn** moved to print **RS 24202**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

RS 24203 **Mr. Tominaga** said **RS 24203** amends the Ground Water District Act, Chapter 52, Title 42, Idaho Code, to give ground water districts the ability, but not the obligation, to contract with nonmembers who wish to participate in and obtain the benefits of the district's mitigation plans.

Ground water districts have geographic boundaries, and many mitigation plans have geographic and other limitations. The amendment gives districts the ability to decline to contract with a nonmember if for any reason the district board of directors determines it is not in the district's best interest. This does not affect the right of nonmembers within a district's boundaries to join the district under Idaho Code § 52-5245.

MOTION: **Senator Heider** moved to print **RS 24203**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 24204 **Mr. Tominaga** stated that **RS 24204** also amends the Ground Water District Act and it enables the ground water districts to impose assessments based on the number of acres authorized to be irrigated as an alternative to the quantity of water authorized to be diverted. Idaho Code § 42-5232, § 42-5233 and § 42-5234 presently provide for assessments based on the quantity of water authorized to be diverted. Some ground water districts prefer to assess irrigators based on the number of acres authorized to be irrigated. These amendments enable districts to do either.

MOTION: **Senator Bayer** moved to print **RS 24204**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 24205 **Mr. Tominaga** said this legislation clarifies that ground water districts may incur short-term debt without holding an election or seeking judicial confirmation. As the code is presently written, it requires ground water districts to hold an election and obtain judicial confirmation prior to incurring any financial obligation, arguably even routine operations expenses such as utilities. The amendment clarifies that an election and judicial confirmation are not necessary for districts to incur short-term financial obligations with a repayment term not exceeding one year.

MOTION: **Senator Lacey** moved to print **RS 24205**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

RS 24141 **Senator Hagedorn** presented **RS 24141** and said this RS would increase the reimbursable damage penalties assessed by magistrates to any person guilty of the illegal killing, illegal possession or illegal waste of certain species of big game as a further deterrent to these illegal actions. **Senator Hagedorn** stated that there has not been an increase in fines for 20 years.

This RS increases the fine for the following animals, killed, possessed or wasted:

- Elk, fine raised from \$750 to \$1,000.
- Caribou, bighorn sheep, mountain goat or moose, fine raised from \$1,500 to \$2,600.
- Any other species of big game, fine raised from \$400 to \$700.
- Wild turkey and swan, fine of \$250
- Sturgeon, fine of \$250.
- Bull trout, anadromous salmon or steelhead, fine of \$150.
- Any other game bird, game fish or furbearer, fine of \$50.

Senator Hagedorn said the RS also defines the fines for trophy animals that are killed, possessed or wasted. He said that if the RS is printed, he is quite sure there will be a number of sportsmen testifying in support of the increase in fines.

MOTION: **Senator Stennett** moved to print **RS 24141**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

Chairman Bair welcomed the Gubernatorial appointees to the meeting. He then called on Louise Stark, who was reappointed to the Outfitters and Guides Licensing Board to serve a term commencing April 20, 2015, and expiring April 20, 2018. He asked Ms. Stark to provide a brief history of her activities for the benefit of the new Committee members.

GUBERNATORIAL APPOINTMENT HEARING: **Ms. Stark** said she has been co-owner (29 years), with her husband, of White Cloud Outfitters, a big game hunting/fishing/summer recreation outfitting and guiding business. She stated that she is a recreational licensed guide, as well as a first aid instructor. She also serves as the office manager for her business, based in Challis, Idaho.

Ms. Stark's educational and professional accomplishments include:

- BA in physical education
- Idaho Secondary Teaching Certificate
- Alaska Secondary Teaching Certificate
- Red Cross First Aid/CPR/AED Instructor
- Licensed Idaho Recreation Guide

Professional memberships include:

- America Outdoors Association
- Challis Chamber of Commerce
- Challis Arts Council
- Ketchum/Sun Valley Chamber of Commerce
- Stanley Chamber of Commerce
- Wild Sheep Foundation
- Idaho Chapter Wild Sheep Foundation
- North American Moose Foundation
- Safari Club International
- Idaho Chapter of Safari Club International
- Idaho Outfitters and Guides Association

Chairman Bair asked Ms. Stark what important issues are facing the outfitters' industry and what contributions can she make as a board member. **Ms. Stark** replied that the board regulates the recreational activities that are on federal and state land and helps in writing and enforcing the rules. The board is required to collect information and consolidating that information is a challenge. Ms. Stark indicated that she is capable of meeting that challenge.

Chairman Bair thanked Ms. Stark for appearing before the Committee and said that voting on her reappointment would take place at the next meeting of the Committee.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

He then welcomed Dan Blanco, who was appointed to the Idaho Fish and Game Commission (Commission) to serve a term commencing September 10, 2015, and expiring June 30, 2019.

Mr. Blanco is from Moscow, Idaho, and succeeds Fred Trevey, former commissioner. When asked why he would like to serve in this capacity, **Mr. Blanco** said he would like to contribute to the preservation and enhancement of Idaho's hunting, fishing and trapping heritage, which is inseparably linked to the state and the character of its people.

Organization membership:

- National Rifle Association, life member
- Henry's Fork Foundation
- Idaho for Wildlife Foundation, board member and treasurer
- The Gamebird Foundation, board member
- Idaho Hunter Safety Instructor

Mr. Blanco indicated that he is a past board member of several organizations. They are:

- Concerned Sportsmen of Idaho
- Idaho College Career Services Association
- Moscow Central Lions Club
- Public Information Committee, Senator Crapo Elk Summit/Clearwater Elk Initiative.

Mr. Blanco moved to Idaho in 1991 to accept a position at the University of Idaho. After retiring from higher education, he pursued employment in sales and marketing in the hunting and fishing industry. He still works on a seasonal basis but wants to shift his energies to public service as Commissioner for the Clearwater Region.

Mr. Blanco said that he feels there are two concerns facing the Commission. First, he expects federal mandates, especially those associated with endangered species, that could drain energy and resources away from the department's core tasks. Second, he is certain that wealthy animal rights groups will continue to pursue an agenda to control the behavior of people who engage in legal, traditional and enjoyable activities that they don't like.

When asked who he will be working for, **Mr. Blanco** replied that he will work for the sportsmen.

Chairman Bair thanked Mr. Blanco and said the Committee would consider his appointment at their next meeting. He then welcomed Derick Attebury, Idaho Falls, Idaho, who was appointed to the Commission to serve a term commencing September 10, 2015, and expiring June 30, 2019. He is succeeding Kenneth Anderson.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Chairman Bair asked Mr. Attebury why he aspired to become a commissioner. **Mr. Attebury** replied that Idaho is an awesome place to live and he would like to protect, preserve and perpetuate Idaho's richest resource of fish, game and non-game species and ensure that these remain intact for all future generations to come. He would like to represent the Idaho Fish and Game and foster public support for them while also being a voice for common concerns. He has fished in Idaho since 1984 and hunted in the state since 1987.

Since May 2006, Mr. Attebury has been the operations manager for Rain For Rent in Idaho Falls, Idaho. During this time he won the "President's Excellence Award" while mentoring and training new personnel.

Mr. Attebury received his education at Madison High School and the University of Idaho. Training followed at Rain For Rent. Organizations to which Mr. Attebury belongs are: Eagle Rock Cycle Club, triathlete; Idaho Irrigation Equipment Association (past board member and currently vice president); NRA; and the Rocky Mountain Elk Foundation. He also has church leadership responsibilities.

When asked who he will be working for, **Mr. Attebury** replied that he will work for the sportsmen.

Chairman Bair thanked the appointees for appearing before the Committee and said the Committee would vote on their appointments at the next meeting. He said that no meeting is scheduled for Friday.

ADJOURNED: With no further business to come before the Committee, **Chairman Bair** adjourned the meeting at 2:35 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 01, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---|---|---|
| Minutes | Approval of minutes, January 18, 2016 | Senator Lacey |
| Minutes | Approval of minutes, January 20, 2016 | Senator Heider |
| Minutes | Approval of minutes, January 22, 2016 | Senator Bayer |
| Gubernatorial Appointment Consideration | Louise D. Stark, Challis, Idaho was re-appointed to the Outfitters and Guides Licensing Board to serve a term commencing April 20, 2015 and expiring April 20, 2018. | |
| Gubernatorial Appointment Consideration | Daniel A. Blanco, Moscow, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing September 10, 2015 and expiring June 30, 2019. | |
| Gubernatorial Appointment Consideration | Derick E. Attebury, Idaho Falls, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing September 10, 2015 and expiring June 30, 2019. | |
| <u>RS24335</u> | Provides that the Idaho Fish and Game Commission enact the Governor's Tag Program. | Chairman Bair |
| <u>RS24238</u> | A concurrent resolution supporting the settlement agreement between the Surface Water Coalition and the Idaho Ground Water Appropriators. | Chairman Bair |
| <u>RS24282</u> | A concurrent resolution requesting that the Idaho Water Resource Board address statewide aquifer stabilization and sustainability projects including managed recharge, conduct aquifer recharge studies and develop a ground water model. | Chairman Bair |
| <u>RS24283</u> | A concurrent resolution recognizing the need for managed recharge of the Eastern Snake Plain Aquifer. | Chairman Bair |
| <u>RS23975</u> | Revises priority classifications for certain water bodies in regard to the development of Total Maximum Daily Load or equivalent processes. | Barry Burnell, Administrator, Water Quality Division, DEQ |
| <u>RS23978</u> | Establishes the process for appealing IPDES permits issued by DEQ and provides DEQ with necessary minimum enforcement authorities. | Barry Burnell |
| <u>RS23979</u> | Authorizes inspection and copying of certain records relating to water quality and to make technical corrections. | Barry Burnell |

| | | |
|----------------------------------|--|--|
| <u>RS23993C1</u> | Revises provisions regarding the funding of the State Underground Storage Tank Program and to provide for reporting. | Orville Green, Administrator, Waste Management and Remediation, DEQ |
| <u>RS24349</u> | Increases the maximum amount of certain administrative charges that may be levied. | Norm Semanko, Ex. Dir., Idaho Water Users Association |
| <u>RS24350</u> | Revises provisions regarding delinquency of assessments. | Norm Semanko |
| <u>RS24351</u> | Clarifies when persons shall be entitled to become purchasers of the rights of the district. | Norm Semanko |
| <u>RS24352</u> | Provides that certain irrigation districts shall have the power to enter into contracts to construct or deepen wells. | Norm Semanko |
| <u>RS24353</u> | Provides that an entity operating a canal or conduit for irrigation shall not be required to obtain an additional water right. | Norm Semanko |
| <u>S 1213</u> | F&G, unmanned aircraft and wildlife | Ed Schriever, Deputy Director, IDFG |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 01, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/EXCUSED: Senator Siddoway

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Lacey** moved to approve the minutes of January 18, 2016. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Heider** moved to approve the minutes of January 20, 2016. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Bayer** moved to approve the minutes of January 22, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

ANNOUNCEMENT: **Chairman Bair** announced that in the Committee's blue folders, there are two letters of support for the Idaho Fish and Game Commissioners. They are from Ed Lindahl, Sagle, Idaho, and the Ada County Fish and Game League, signed by Robert Minter, President.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Hagedorn** moved to send the Gubernatorial appointment of Louise Stark to the Outfitters and Guides Licensing Board to the floor with recommendation that she be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Nuxoll** moved to send the Gubernatorial appointment of Daniel Blanco to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Nuxoll will be the floor sponsor.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Lacey** moved to send the Gubernatorial appointment of Derick Attebury to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Lacey will be the floor sponsor.

PASSED THE GAVEL: **Chairman Bair** passed the gavel to Vice Chairman Vick so that he could present several RS's.

RS 24335 **Chairman Bair** said the 2012 Legislature passed S 1256 which dealt with Governor's tags. On page 3 of the RS, there are four changes to be made. They are found on lines 20, 21 and 22. On line 20, the words "up to" are stricken and the word "may" is changed to "shall". On lines 21 and 22, the word "may" is changed to "shall." These changes will make this program more effectual and will bring in more revenue for the Idaho Department of Fish and Game (IDFG).

Chairman Bair stated that this legislation authorizes the Commission to designate one moose; three elk, deer and antelope tags respectively; one wild sheep; and one mountain goat tag per year. Tags would be taken from the nonresident tag pool, thereby not diminishing resident hunting opportunities.

When asked what prompted the changes of the wording, **Chairman Bair** replied that the Commission had not acted on this for several years and there has not been a shortage of animals.

MOTION: **Senator Hagedorn** moved to print **RS 24335**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. **Senator Heider** asked to be recorded as voting nay.

RS 24238 **Chairman Bair** said this is a Senate Concurrent Resolution supporting the settlement agreement between the Surface Water Coalition and the Idaho Ground Water Appropriators. The agreement avoided curtailment and maintained sustainable ground and surface water supplies on the Eastern Snake Plain Aquifer (ESPA) and minimized harm to Idaho's economy.

Both **Senators Heider** and **Stennett** commended the Chairman and Speaker Bedke for their efforts in helping to reach the agreement.

MOTION: **Senator Heider** moved to print **RS 24238**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

RS 24282C1 **Chairman Bair** said this is a Senate Concurrent Resolution requesting that the Idaho Water Resource Board address statewide aquifer stabilization and sustainability projects including: managing recharge, conducting aquifer recharge studies and developing a ground water model.

MOTION: **Senator Hagedorn** moved to print **RS 24282C1**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 24283 **Chairman Bair** said the purpose of this Senate Concurrent Resolution is to establish an ESPA managed recharge goal of 250,000 acre-feet on an average annual basis. It directs the development of the capacity necessary to achieve the recharge goal on or before December 31, 2024, and provides legislative approval to increase the ESPA CAMP Phase I managed recharge from 100,000 acre-feet to 250,000 acre-feet average annual managed recharge. These measures are necessary to address the declining ground water levels in the ESPA.

MOTION: **Senator Heider** moved to print **RS 24283**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Vick passed the gavel back to Chairman Bair.

RS 23975 Barry Burnell, Administrator, Water Quality Division, Department of Environmental Quality (DEQ), presented **RS 23975**. **Mr. Burnell** said this RS revises priority classifications for certain water bodies in regard to the development of total maximum daily load (TMDL) or equivalent processes.

MOTION: **Vice Chairman Vick** moved to print **RS 23975**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

RS 23978 **Mr. Burnell** said that **RS 23978** establishes the process for appealing Idaho Pollution Discharge Elimination System (IPDES) permits issued by DEQ and provides DEQ with necessary minimum enforcement authorities.

MOTION: **Senator Stennett** moved to print **RS 23978**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

RS 23979 **Mr. Burnell** said that **RS 23979** authorizes inspection and copying of certain records relating to water quality and to make technical corrections.

MOTION: **Senator Bayer** moved to print **RS 23979**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

RS 23993C1 **Orville Green**, Administrator, Waste Management and Remediation, DEQ, presented **RS 23993C1**. **Mr. Green** said this RS revises provisions regarding the funding of the State Underground Storage Tank Program and provides for reporting.

MOTION: **Senator Heider** moved to print **RS 23993C1**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

RS 24349 **Norm Semanko**, Executive Director, Idaho Water Users Association, presented **RS 24349**. This RS increases the maximum amount of certain administrative charges that may be levied.

MOTION: **Senator Hagedorn** moved to print **RS 24349**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

RS 24350 **Mr. Semanko** said **RS 24350** revises provisions regarding delinquency of assessments.

MOTION: **Senator Hagedorn** moved to print **RS 24350**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

RS 24351 **Mr. Semanko** stated that **RS 24351** clarifies when persons shall be entitled to become purchasers of the rights of the district.

MOTION: **Senator Lacey** moved to print **RS 24351**. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

RS 24352 **Mr. Semanko** said that **RS 24352** provides that certain irrigation districts shall have the power to enter into contracts to construct or deepen wells.

MOTION: **Vice Chairman Vick** moved to print **RS 24352**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

RS 24353 **Mr. Semanko** asked that **RS 24353** be withdrawn. **Chairman Bair** honored the request.

S 1213 **Ed Schriever**, Deputy Director, IDFG, presented **S 1213**. **Mr. Schriever** said that the Fish and Game Commission has heard from many sportsmen who are concerned that unmanned aircraft systems, i.e. drones, are not held to the same hunting restrictions already in statute for aircraft and motorized vehicles because unmanned aircraft systems are not specifically noted in Idaho Code detailing these hunting restrictions.

He stated that this is a valid concern. The Federal Aviation Administration predicted more than one million drones would be bought around the country as holiday gifts this past Christmas. Drones are very popular and increasingly affordable technology. In 2013, the Idaho Legislature took action to restrict the use of drones in regard to unpermitted surveillance of individuals and private property in response to the expected increase in the use of drones.

Mr. Schriever said the concern about use of drones for hunting is not unique to Idaho. To provide the Commission with information, they surveyed several other Western states and Canadian provinces about actions they have taken or are considering relative to drones and hunting. Various hunting restrictions are in place for drones in New Mexico, Saskatchewan, Wyoming, Texas, Colorado, Washington, Nebraska and Arizona. The Oregon legislature took action to ban drones for hunting in 2015 and Alaska and Montana also restrict drones for hunting.

Unmanned aircraft systems meet Idaho statutory and rule definitions for aircraft and motorized vehicles relative to hunting restrictions.

S 1213 clarifies that unmanned aircraft systems (drones) are included in the existing hunting use restrictions for motorized vehicles and aircraft in Idaho Code § 36-1101. The bill does not create any new restrictions and does not interfere with use of aircraft for permitted, authorized wildlife control actions.

Mr. Schriever stated that the Commission supports this bill and requests the Committee's "do pass" recommendation.

MOTION:

Senator Lacey moved that **S 1213** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Hagedorn will be the floor sponsor.

ADJOURNED:

Chairman Bair adjourned the meeting at 2:50 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

JOINT
**SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE**

1:30 P.M.

**Lincoln Auditorium WW02
Wednesday, February 03, 2016**

| SUBJECT | DESCRIPTION | PRESENTER |
|----------------|--|---|
| | Risk Analysis as related to "Fish Consumption" | Dr. Greg Moller, UI |
| | "Water for Present and Future Beneficial Uses: Infrastructure, Recharge, Efficiency, and Conservation" | Gary Spackman, Director, IDWR, and Roger Chase, Board Chairman |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair

Vice Chairman Vick

Sen Siddoway

Sen Heider

Sen Nuxoll

Sen Bayer

Sen Hagedorn

Sen Stennett

Sen Lacey

COMMITTEE SECRETARY

Juanita Budell

Room: WW37

Phone: 332-1323

email: sres@senate.idaho.gov

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Wednesday, February 03, 2016

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium WW02

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

Chairman Raybould, Vice Chairman Gestrin, Representatives Moyle, Andrus, Shepherd, Boyle, Vander Woude, Gibbs, Miller, Burtenshaw, Mendive, VanOrden, Youngblood, Pence, Erpelding and Rubel

ABSENT/ EXCUSED: Representatives Wood and Bateman

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Raybould** called the joint meeting of the Senate Resources and Environment Committee and the House Resources and Conservation Committee (Committees) to order at 1:30 p.m. He welcomed the guests and the presenters of the day's topics: Dr. Moller speaking on risk analysis as relates to fish consumption; and Gary Spackman and Roger Chase addressing water uses.

Chairman Raybould asked Chairman Bair to speak. **Chairman Bair** said the information that was presented was educational and informative and thanked the audience for their attendance.

INTRODUCTION: **Steve Cory**, President, Idaho Council on Industry and the Environment (ICIE), provided a biography of Professor Greg Moller. Dr. Moller is Professor of Environmental Chemistry and Toxicology in the University of Idaho-Washington State University Joint School of Food Science and the UI Environmental Science Program. His research is in the field of environmental and food-chain contamination, and the development of sustainable water treatment processes. He is a regulatory science Water Quality Criteria reviewer for the U.S. Environmental Protection Agency and for the California Environmental Protection Agency, and a 2014 recipient of the National USDA Excellence in Teaching Award sponsored by the Association of Public and Land Grant Universities, representing 238 public research universities.

Dr. Moller is a Fellow of the International Union of Pure and Applied Chemistry and a Fulbright Fellow. He has had six U.S. patents issued and licensed in the past six years, and two patents are pending.

For eight years, Dr. Moller was Chief Science Officer of Blue Water Technologies, a successful Idaho company founded on his technology. He is currently CEO of BlueXGreen, LLC, an Idaho start-up company that advances emerging technologies addressing global challenges.

PRESENTATION: **Dr. Moller** gave a PowerPoint presentation (see attachment 1) titled "Risk Triad: Risk Assessment, Risk Communication and Risk Management."

Dr. Moller said the scientific evaluation of the probability of harm resulting from exposure to toxic substances relates to risk assessment. Risk communication principles serve to create an appropriate level of outrage, behavior modification or mitigating response that is in direct proportion to the level of risk or hazard. Risk management combines results of exposure assessment and hazard identification and describes the uncertainty associated with each step.

Risk analysis is like a system of reliable strangers. Plane trips are inherently risky, but the pilots and staff make the risky business of flight possible. They minimize the risk. Risk has roots in dread and fear. The fear of danger is ten times worse than the danger itself. People accept risk by taking control of it. Toxicology is the interface of chemistry and biology. The biology is the people, and the chemistry is the risk.

Risk characterization is the description of the risk. Human health risk assessments are a predictive model. They are not meant to be 100 percent accurate.

Risk assessment looks at the population distribution and determines risk levels to those who would have a minimum effect, an average effect or a sensitive effect. We manage risk assessment by doing the most affordable job we can as a society.

Cancer is different in risk assessment. All bets are off when it comes to cancer because of small doses that can cause cancer. A dose response curve is inadequate and it is difficult to extrapolate levels of uncertainty to human life.

Dr. Moller reviewed the water quality rulemaking process. He assumed that the survey was solid and unbiased. The risk triad in this case was: 1.) the water quality as related to fish consumption; 2.) what level of water quality would produce an acceptable risk to humans; 3.) what water treatment would be required to reach an acceptable risk; and 4.) what the cost of that water treatment would be.

Time was allowed for a question-and-answer period.

Chairman Raybould thanked Dr. Moller for his presentation.

PRESENTATION: **Chairman Raybould** welcomed Gary Spackman, Director, Idaho Department of Water Resources (IDWR) and Roger Chase, Chairman, Idaho Water Resource Board (IWRB), who presented "Water for Present and Future Beneficial Uses: Infrastructure, Recharge, Efficiency and Conservation" (see attachment 2).

Director Spackman said he wished to talk about the activities and significant accomplishments of the IDWR and to set the stage for the agreement that was reached. A PowerPoint presentation was given that reviewed statutory assignments and authorities; reviewed and revised cost center rankings; identified legislative concepts to address priorities; and identified budget decision units to address priorities.

Appropriations that have been made to IDWR remain at about the same level as the appropriations made in the last 10 years. The Governor has recommended a \$5 million ongoing increase to IDWR's General Fund base budget for state-sponsored water conservation and enhancement programs and projects pursuant to the IWRB water sustainability policy. This appropriation will be used in conjunction with monies in the Secondary Aquifer Planning, Management and Implementation Fund. Also included is a one-time General Fund transfer of \$16,500,000 to the Secondary Aquifer Planning, Management and Implementation Fund.

Director Spackman stated the need for: additional personnel to support the Surface Water Coalition and the Idaho Ground Water Appropriators' settlement agreement; new water districts required by the completion of the Snake River Basin Adjudication; a technical hydrogeologist in Coeur d'Alene; and two positions to address the water-right licensing backlog.

The next item Director Spackman addressed was the backlog of transfer applications. The median processing time for applications for transfer was reduced from 0.7 years in fiscal year (FY) 2014 to 0.4 years in FY 2015. With regard to licensing, the total number of "proof of beneficial use" documents filed with IDWR increased by 18 percent from FY 2014 to FY 2015.

Following are the various increases:

- Applications for permits increased 18 percent from FY 2013 to FY 2014, then increased another 24 percent from FY 2014 to FY 2015.
- Ownership change forms increased by 6 percent from FY 2014 to FY 2015.
- Applications to lease water rights into the water supply bank increased from 141 in FY 2012 to 445 in FY 2015.
- Applications to lease water rights out of the water supply bank increased from 55 in FY 2011 to 107 in FY 2015.

With regards to the Eastern Snake Plain Aquifer Agreement (ESPA), the ground water users agreed to reduce water consumption by 240,000 acre-feet annually. They also agreed to supply 50,000 acre-feet of storage water annually and to measure all significant diversions of ground water. Actions in the Agreement are intended to stabilize and recover the aquifer.

Director Spackman said the State of Idaho did not sign the agreement but did participate and assisted in the negotiations. However, the State intends to do the following:

- recharge the aquifer with surface water by an average of 250,000 acre-feet per year;
- form a ground water management area for water administration - significant factual and legal questions; and
- coordinate and administer installation, calibration and data gathering at 3,500 to 4,000 wells diverting water from the aquifer.

Roger Chase, Chairman, IWRB, addressed the subject of water sustainability. It is needed to ensure water supplies for existing uses, for future growth and for environmental purposes. **Mr. Chase** said it starts with wise use, administration and management.

In 1912, desert land was turned into farm land by irrigation. This water came from the aquifer, and irrigating was made possible by the cheap power to pump it. From 1912 to 1952, there was no loss of water stored in the ESPA. Since 1952 to 2015, the annual loss of aquifer storage is about 215,000 acre-feet. The ESPA region accounts for about one-third of Idaho's economy. Recharge to the aquifer during the winter of 2014-2015 was 75,000 acre-feet, with 320,000 acre-feet spilled down river. The time frame was from October 24 to March 4. The winter of 2015-2016, as of February 2, was 36,000 acre-feet, with 86,000 acre-feet spilled down river, to date.

Mr. Chase stated that the IWRB has approximately \$3.7 million in recharge capacity improvement projects underway. They anticipate about \$8 million in construction next winter and \$10 million the following winter. He said that even using existing canals, substantial improvements are needed to carry winter recharge water.

Following are water sustainability projects that are statewide:

- Rathdrum Prairie Aquifer
- Palouse Basin Aquifer and future water supply study
- Lewiston-area deep regional aquifer investigation
- Proposed Galloway Reservoir
- Treasure Valley Comprehensive Aquifer Management Planning recharge study and ground water model
- Arrowrock Reservoir, potential enlargement
- Mountain Home Air Force Base water supply and Mountain Home aquifer study
- Flow enhancement of Upper Salmon Basin, Lemhi and Pahsimeroi watersheds
- Wood River Valley Aquifer ground water model
- Eastern Snake Plain Aquifer and Snake River efforts
- Island Park Reservoir, potential enlargement.

In FY 2015, the IWRB approved nine loans totaling \$9.31 million. Significant projects included the A&B Irrigation District pump station and pipeline; Last Chance diversion dam replacement; and the Rangen pipeline. Funding for the commitment to water sustainability and recharge must be ongoing to keep aquifers in balance. There is a one-time General Fund appropriation of \$16.5 million and a \$5 million ongoing General Fund appropriation. At the end of FY 2016, the \$5 million cigarette tax distribution will be discontinued.

Chairman Raybould thanked Director Spackman and Mr. Chase for their presentation.

**ANNOUNCE-
MENT:**

Chairman Raybould announced that the House Committee would remain in the auditorium to conduct Committee business following adjournment of the Joint Committee.

ADJOURNED:

Chairman Raybould adjourned the joint meeting of the Committees at 2:50 p.m.

Senator Bair
Chair

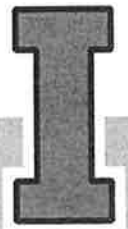
Juanita Budell
Secretary

Attachment 1
2/3/16



University of Idaho

THE SYSTEM OF RELIABLE STRAN

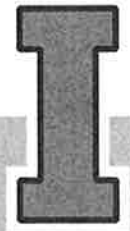


University of Idaho

RISK: DREAD AND FEAR

“Fear of danger is ten thousand times more terrifying than danger itself.”

- Daniel Defoe, 1660-1731
Author, Robinson Crusoe



University of Idaho

RISK: PERCEPTIONS AND PREFERENCES

- Experts and the public often disagree about risk.
- People will accept risks 1,000 greater if they are voluntary (e.g. driving a car) than if they are involuntary (e.g. a nuclear disaster) [Starr 1969].
- Risk attributes that lead to cognitive bias TOWARDS DREAD:
 - Availability- Imagining scenarios
 - Anchoring- Background knowledge
 - Gain/Loss asymmetry- Loss is value greater
 - Threshold- Adverse to uncertainty



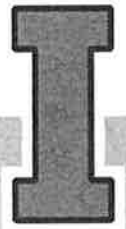
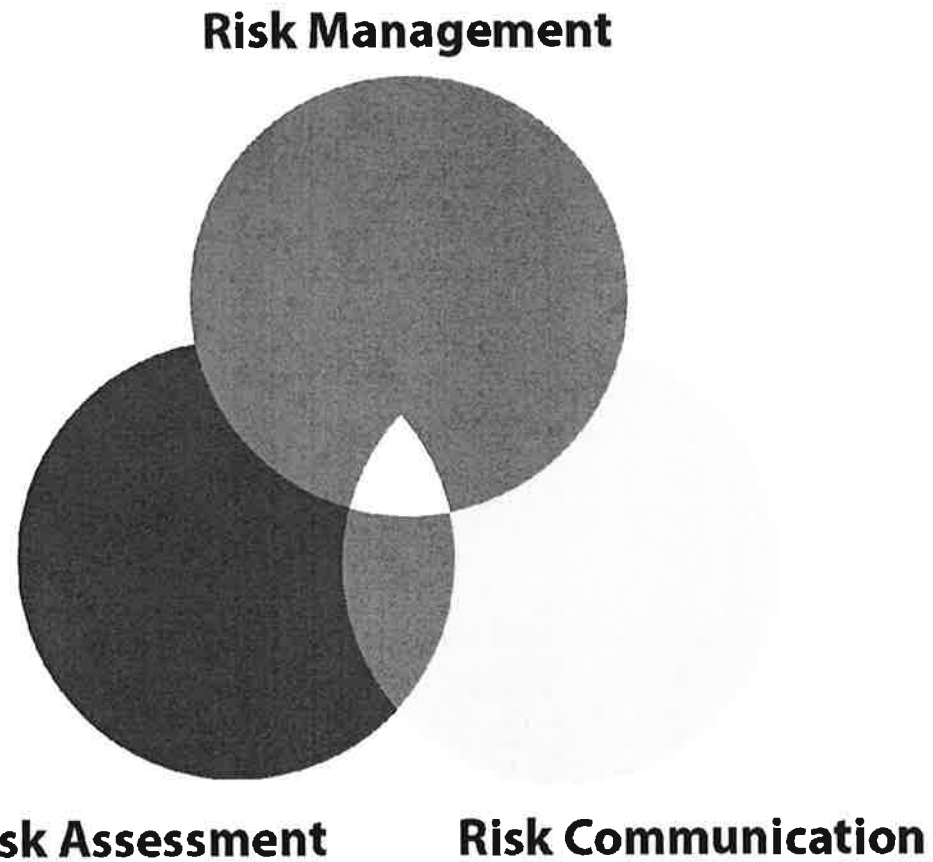
TOXICOLOGY

The interface of chemistry and biology.



University of Idaho

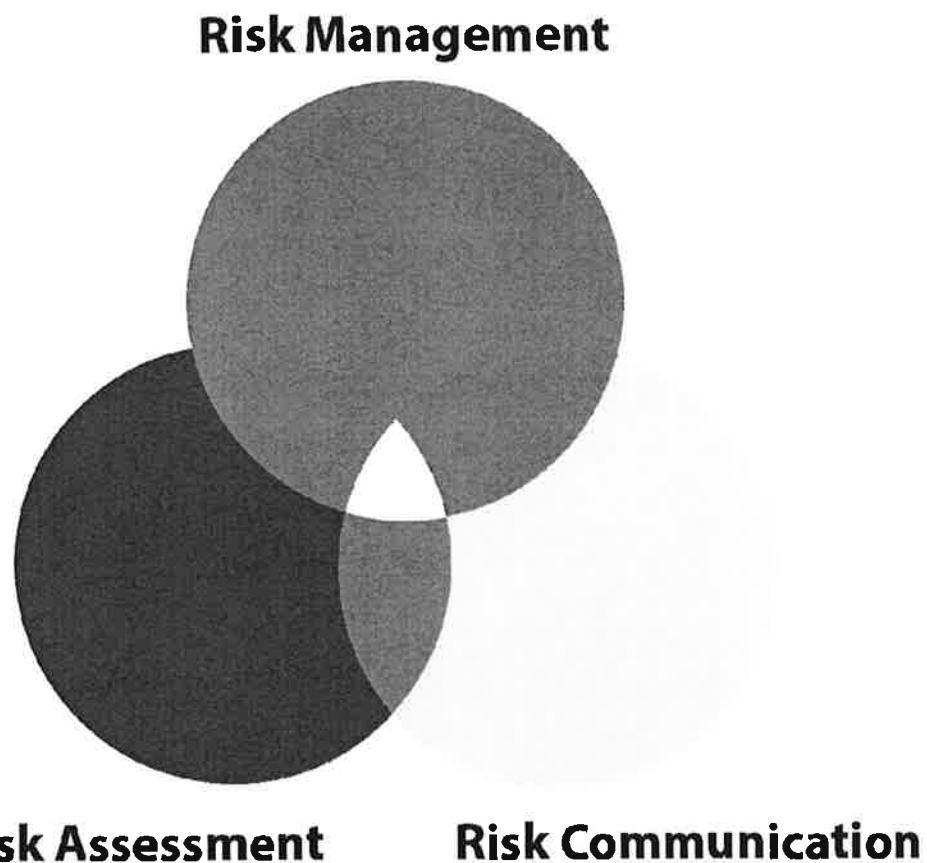
**RISK
TRIAD**



University of Idaho

RISK TRIAD

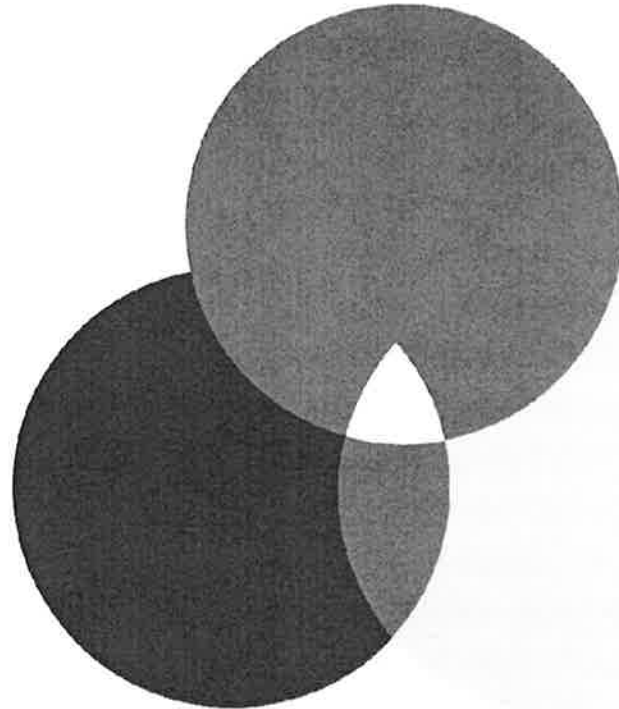
Scientific evaluation of
the **probability of harm**
resulting from exposure
to toxic substances. (EPA)



University of Idaho

RISK TRIAD

Risk Management



The science of communicating effectively in situations that are of high concern, sensitive, or controversial. Risk communication principles serve to create an appropriate level of outrage, behavior modification, or mitigating response, that is in direct proportion to the level of risk or hazard.
(Risk Communication Network)

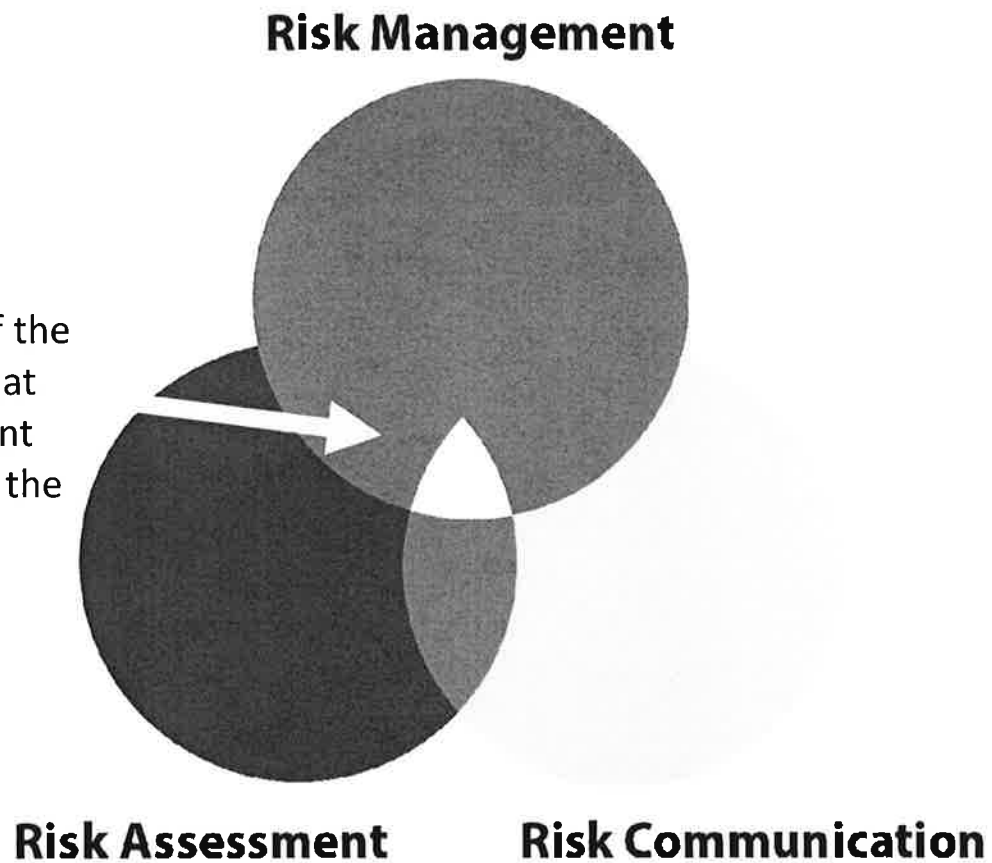
Risk Assessment

Risk Communication

University of Idaho

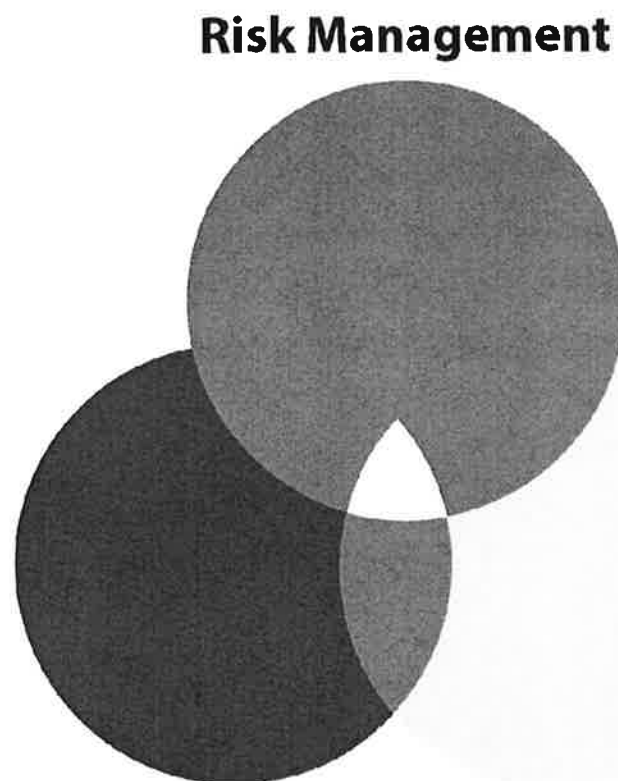
RISK TRIAD

Risk Characterization – A description of the **nature and magnitude of health risk** that combines results of exposure assessment and hazard identification and describes the uncertainty associated with each step.
(NAS)



University of Idaho

RISK TRIAD



The **decision-making process** involving **considerations of political, social, economic and science/engineering factors** with relevant risk assessments to select safety options.
(Intl Risk Governing Council)

Risk Assessment

Risk Communication



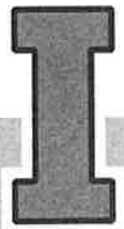
University of Idaho



Toxicology

HUMAN HEALTH RISK ASSESSMENT

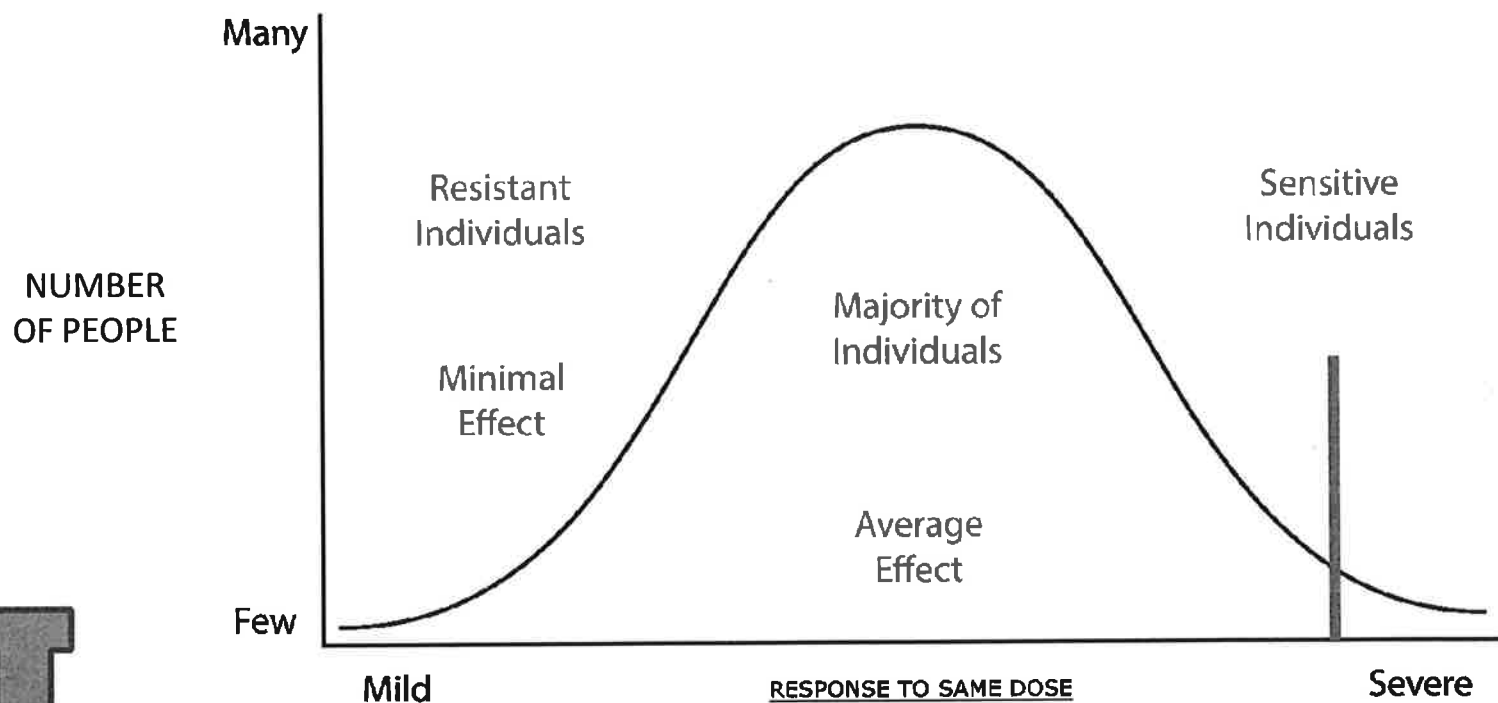
Predictive **modeling** of the threat to human health
posed by the exposure to toxicants.



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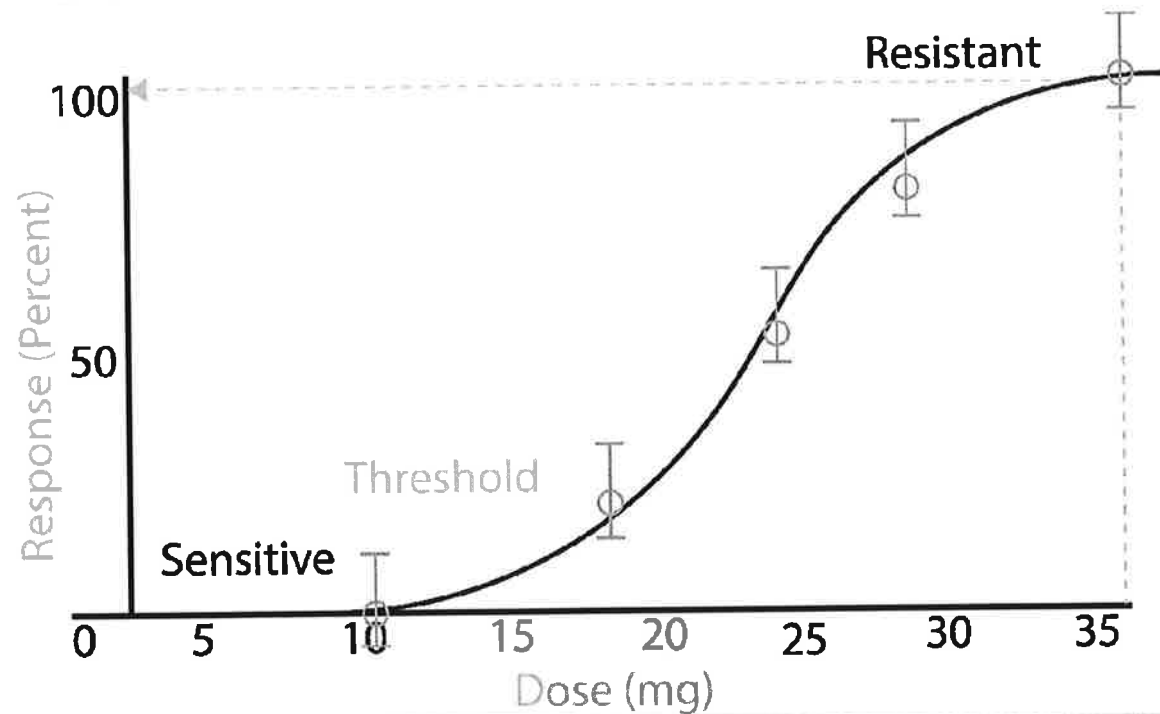
Dose - Response

POPULATION DISTRIBUTIONS

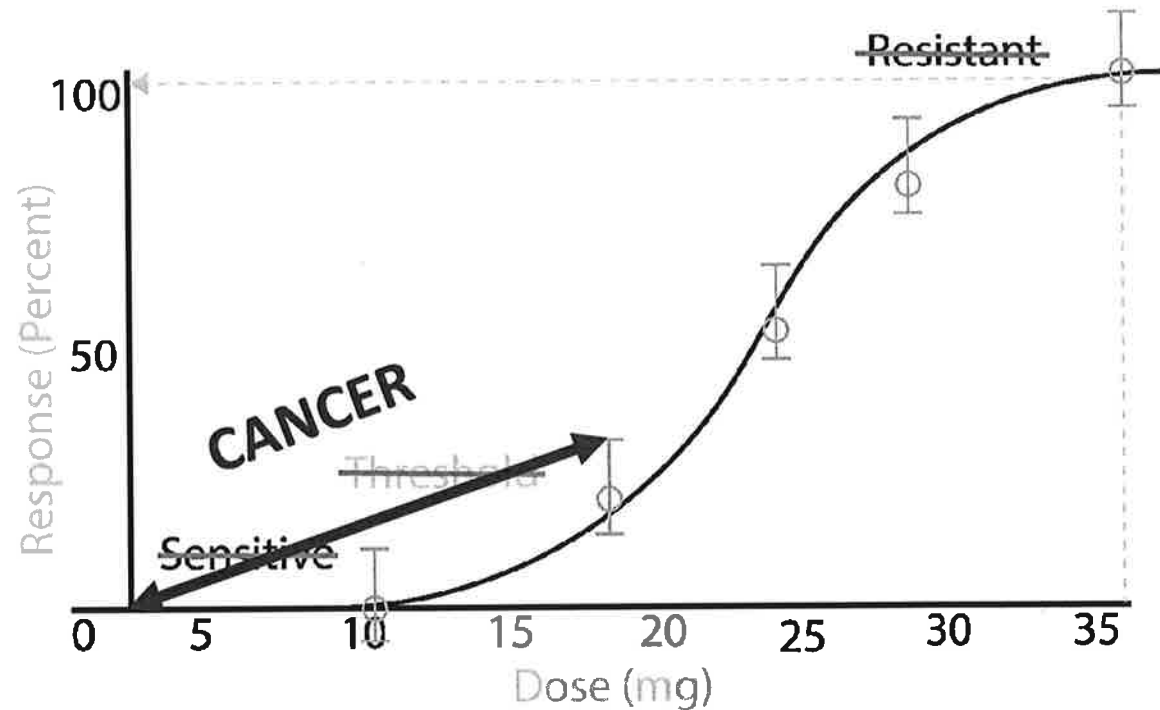


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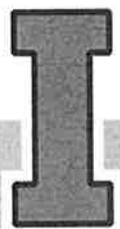
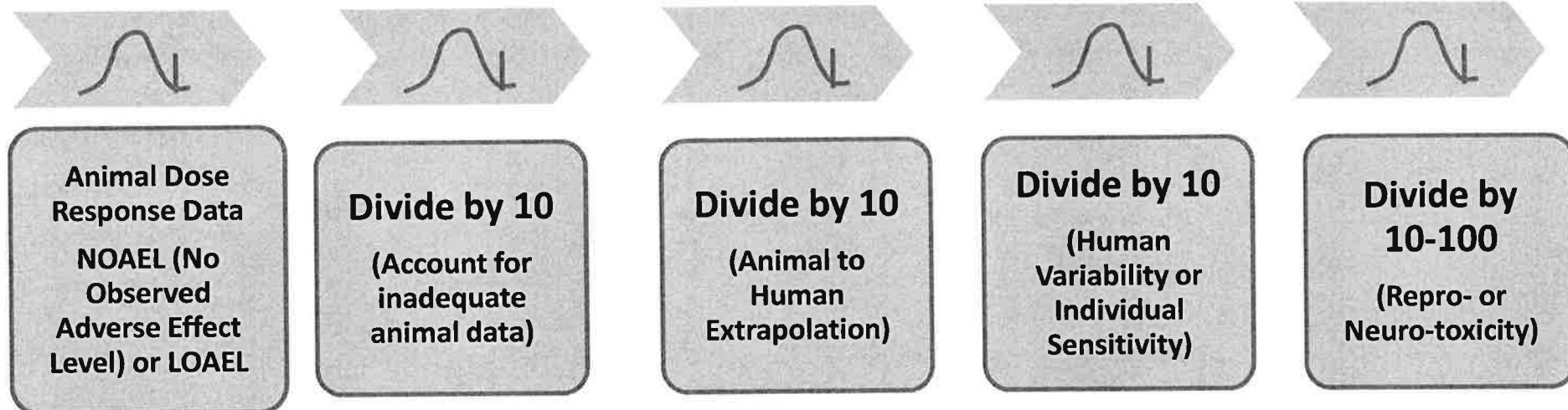
DOSE – RESPONSE CURVES



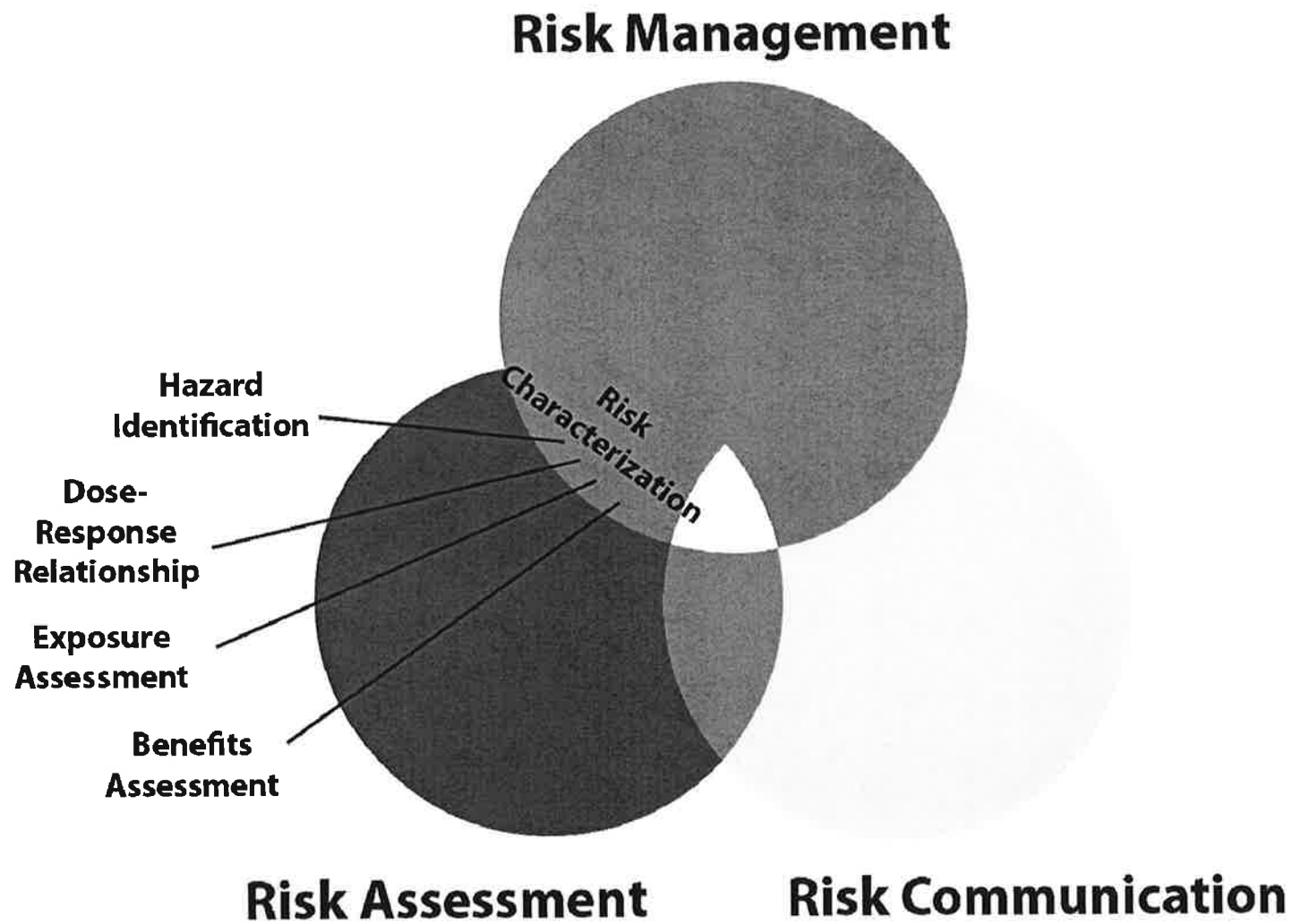
DOSE – RESPONSE CURVES

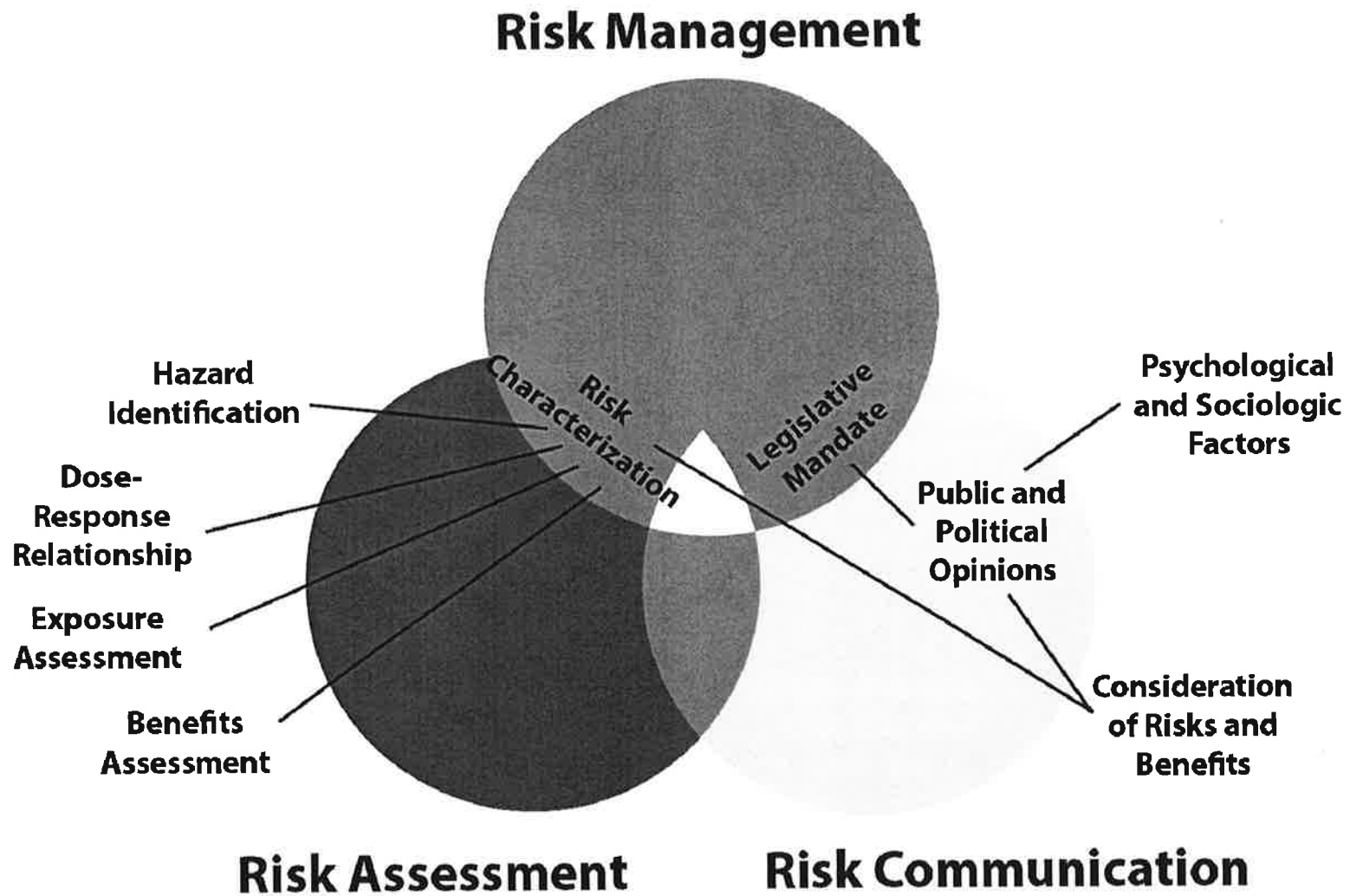


USE OF UNCERTAINTY FACTORS

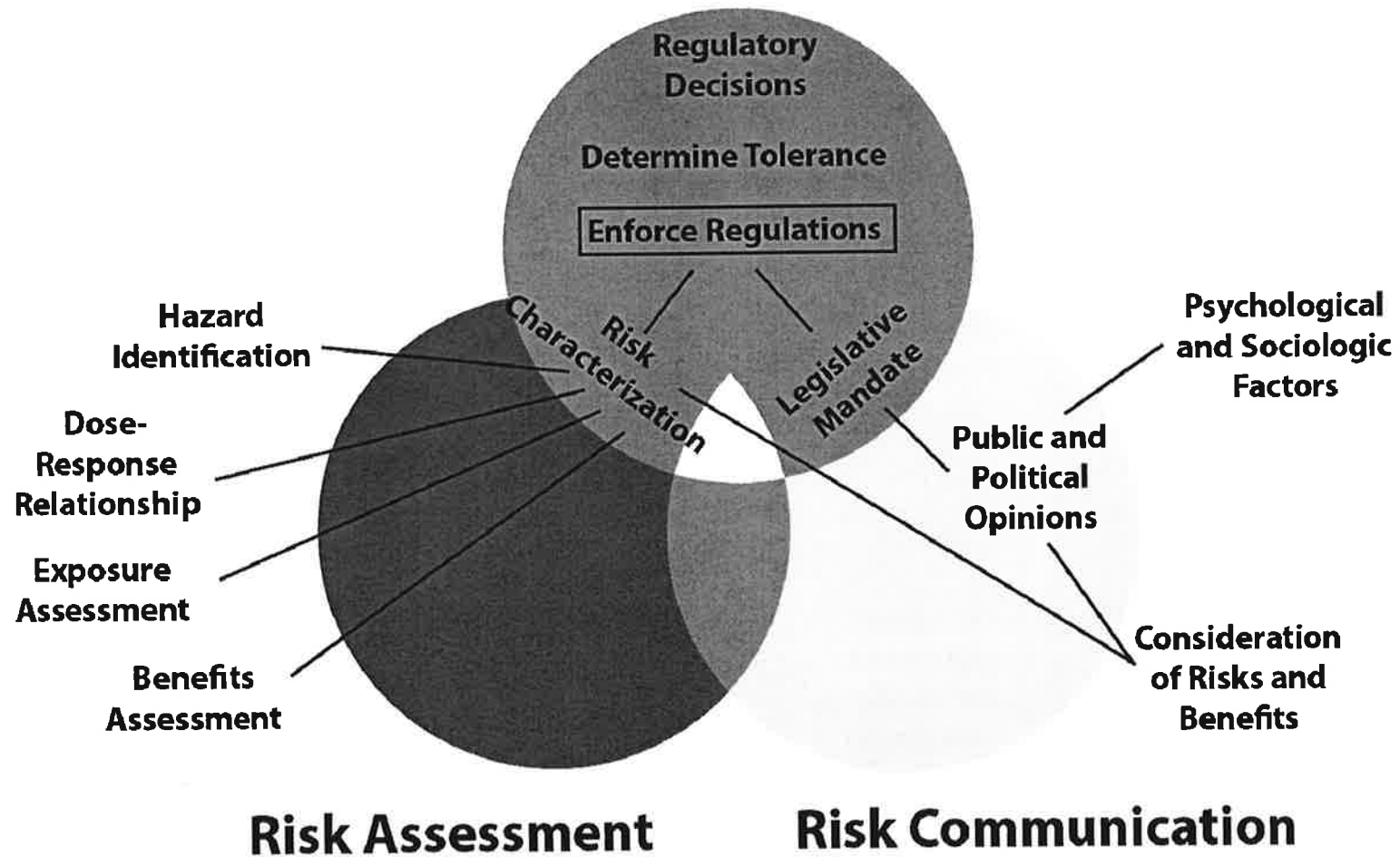


Deterministic modeling can compound uncertainty, versus stochastic modeling





Risk Management



Risk

ASSESSMENT VS. MANAGEMENT

- Separate, but integrated, processes.
- Risk manager's mission: protect human health ...*"how many souls on board?"*
 - i.e., be conservative.
- Risk assessor's mission: provide risk manager with best information possible.
 - – i.e., be honest.



RISK TRIAD



Risk Management

Risk Assessment

Risk Communication



University of Idaho

Attachment 2
2/3/16

Department of Water Resources & Water Resource Board



Report & Update

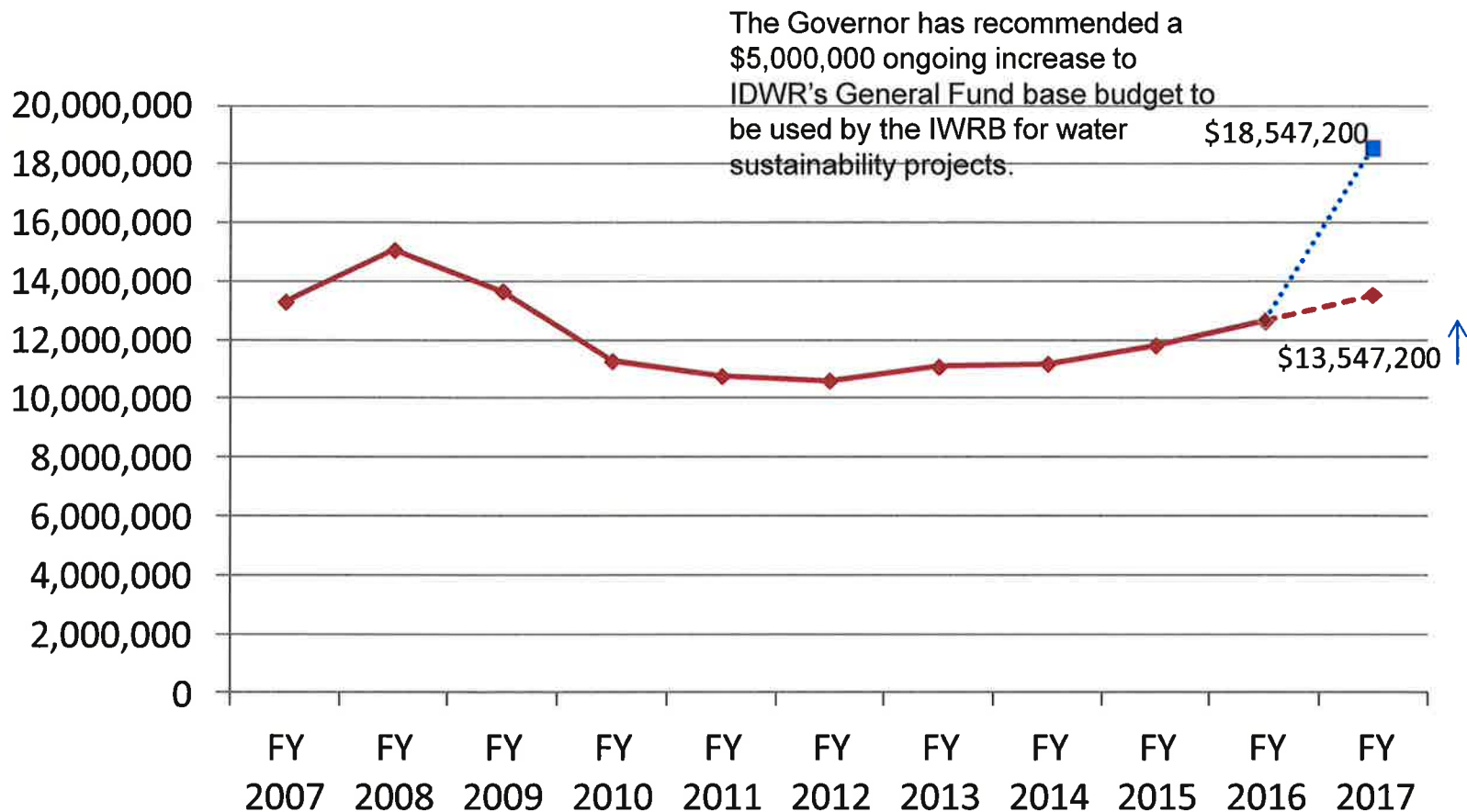
Gary Spackman, Director
Roger Chase, Chairman

February 3, 2016

FY 2016 Zero Base Budgeting by IDWR Staff

- Review statutory assignments & authorities
- Review & revise cost center rankings
- Identify legislative concepts to address priorities, if necessary
- Identify budget decision units to address priorities

IDWR General Fund Appropriation 10 Year Comparison



Decision Unit

- Water Sustainability Projects – **LBB 4-74**

The Governor recommends ongoing General Fund appropriation of \$5,000,000 for state-sponsored water conservation and enhancement programs and projects pursuant to the Water Resources Board water sustainability policy. This appropriation will be used in conjunction with monies in the Secondary Aquifer Planning, Management, and Implementation Fund. Also included is a one-time General Fund transfer of \$16,500,000 to Secondary Aquifer Planning, Management, and Implementation Fund - **\$21,500,000** **LBB 4-80 Line 11 & 4-80 Cash Transfers**

Decision Units

LBB 4-74

- Surface Water Settlement Agreement – Add four FTP's to support the Surface Water Coalition-Idaho Ground Water Appropriators settlement agreement. One vacant FTP to create and support new water districts required by the completion of the Snake River Basin Adjudication - **\$546,100**

LBB 4-78 Line 4

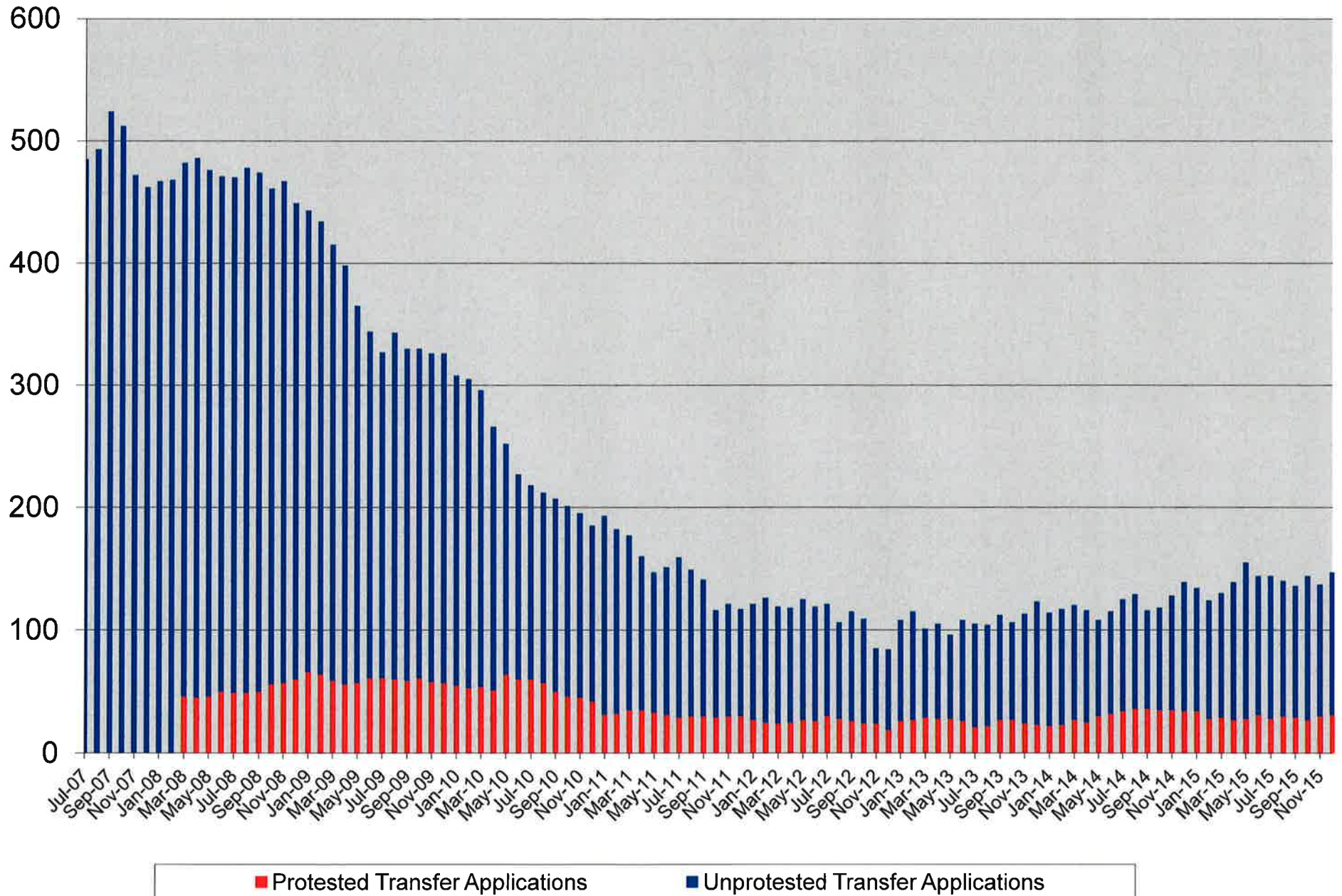
- Northern Idaho Technical Hydrogeologist – Use one vacant FTP located in Coeur d'Alene regional office - **\$125,200**

LBB 4-78 Line 6

- Water Right Licensing – Funding to fill two vacant FTP's to address water right licensing backlog - **\$235,700**

- **LBB 4-79 Line 8**

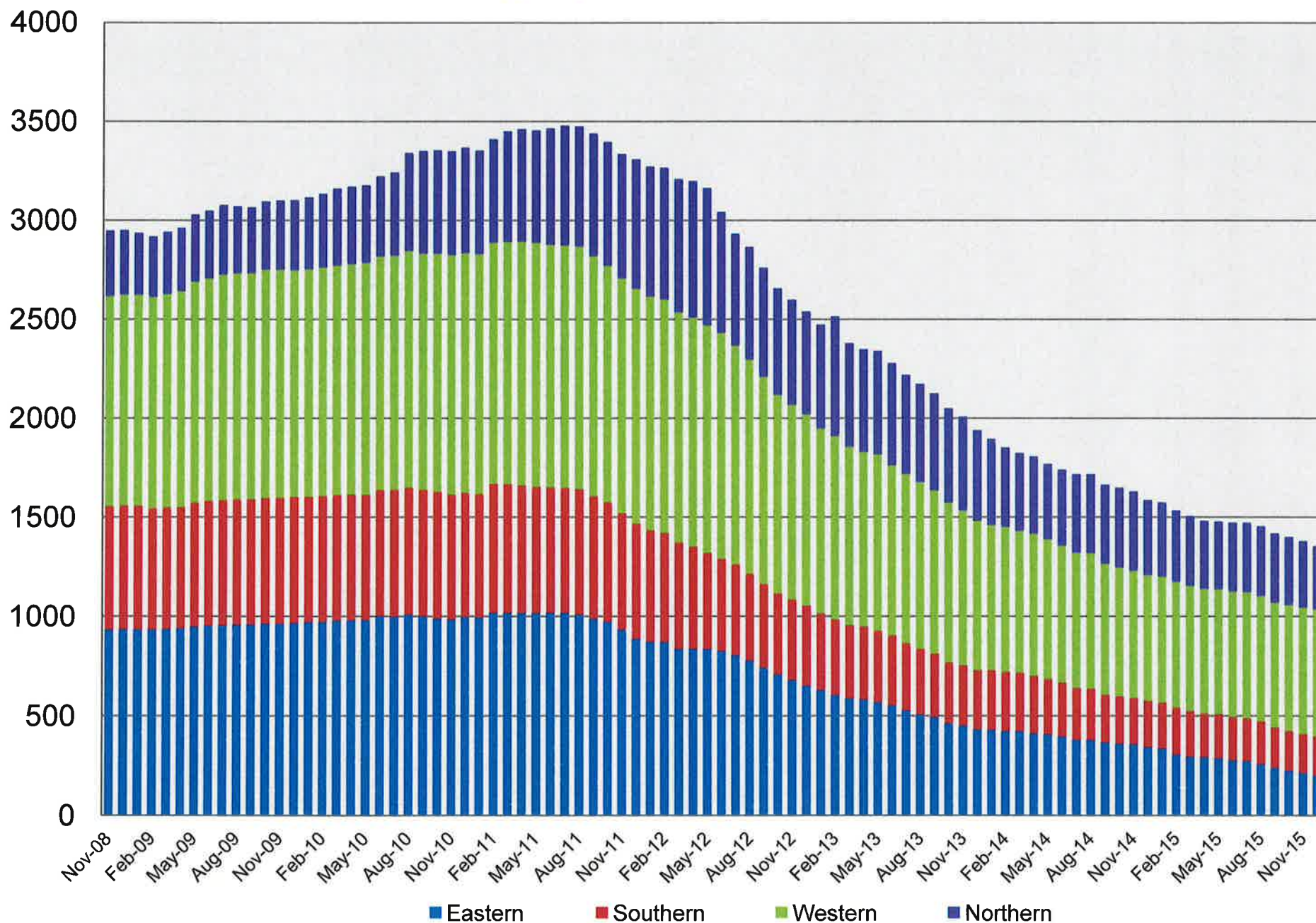
IDWR Active Transfer Applications



Transfers

- Median processing time for applications for transfer reduced from 0.7 years in FY2014 to 0.4 years in FY2015

IDWR Active Water Appropriation Permits with Proof Submitted

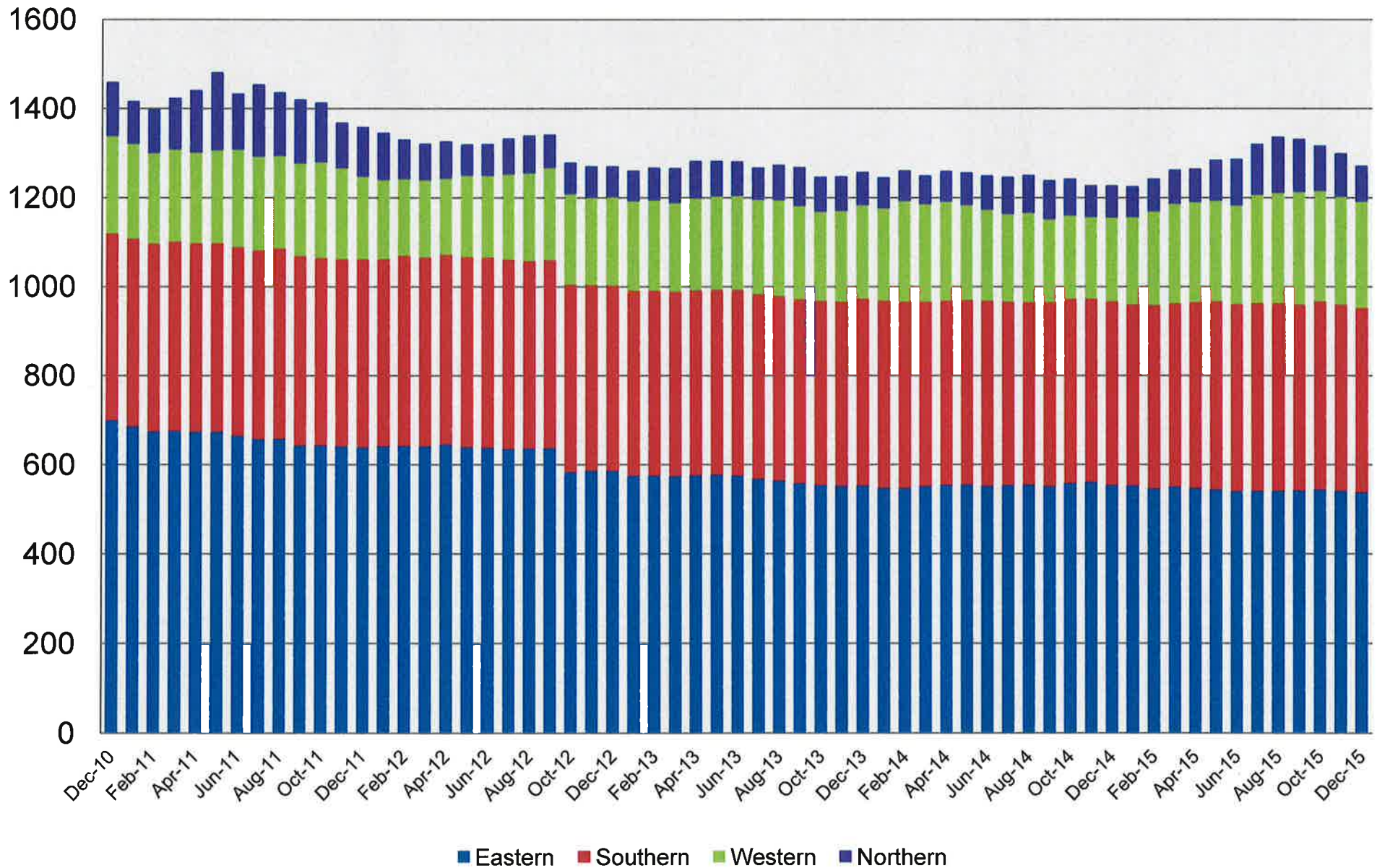


Licensing

- Total number of “proof of beneficial use” documents filed with IDWR increased by 18% from FY2014 to FY2015.

IDWR Applications for Permit Pending

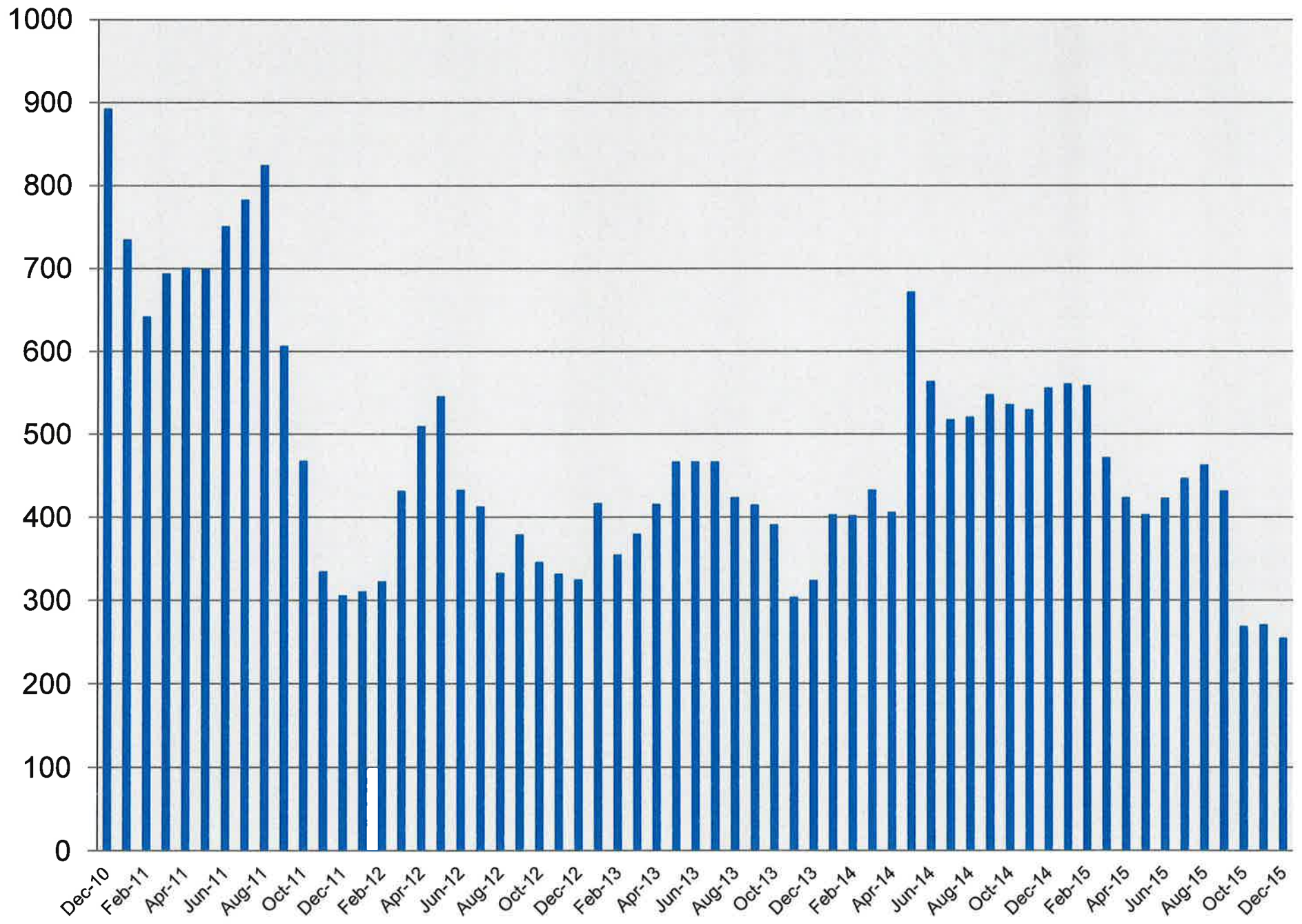
Note: Approximately 657 of these applications are held due to a moratorium and cannot be processed at this time.



Applications for Permit

- The number of applications for permit increased 18% from FY2013 to FY2014.
- The number of applications for permit increased another 24% from FY2014 to FY2015.

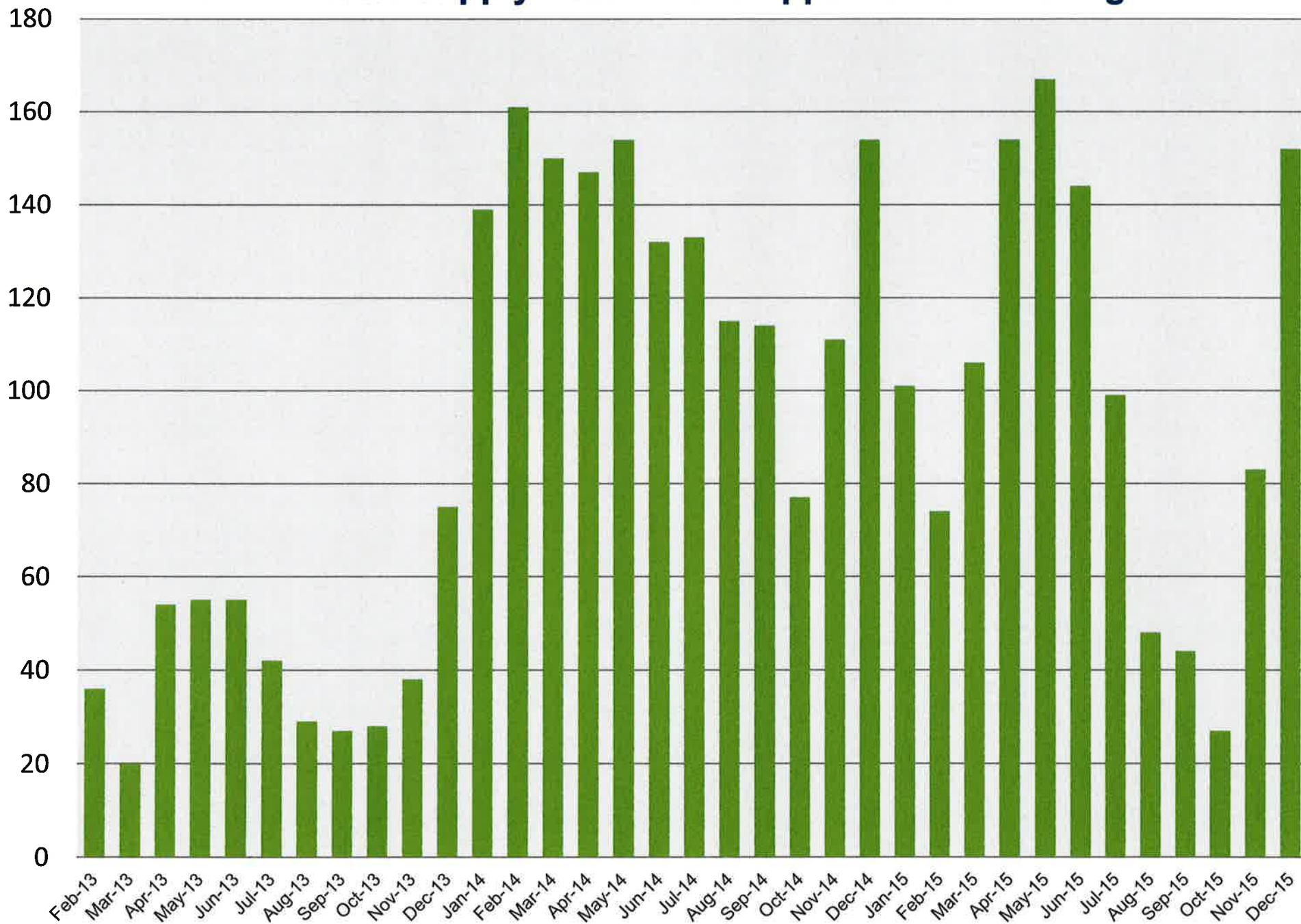
IDWR Pending Water Right Ownership Change Notices



Ownership Changes

- The number of ownership change forms submitted to IDWR increased by 6% from FY2014 to FY2015.

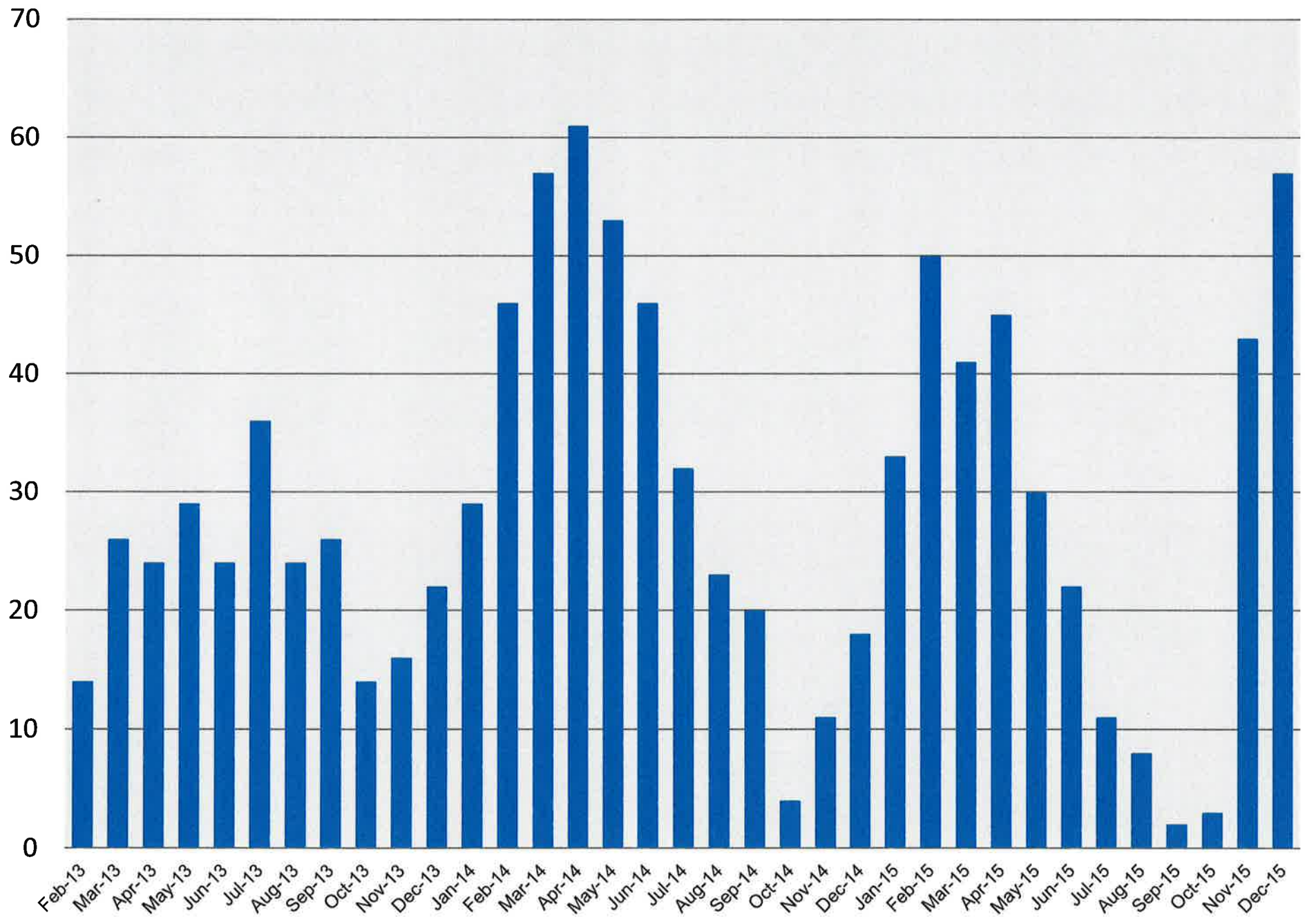
IDWR Water Supply Bank Lease Applications Pending



Water Supply Bank Leases

- Number of applications to lease water rights into the water supply bank has increase from 141 in FY2012 to 445 in FY2015 (316%).

IDWR Water Supply Bank Rental Applications Pending



Water Supply Bank Rentals

- Number of applications to lease water rights out of the water supply bank has increased from 55 in FY2011 to 107 in FY2015 (95% increase).

Eastern Snake Plain Aquifer Agreement

Ground water users agreed to reduce water consumption by 240,000 ac-ft annually, supply 50,000 ac-ft of storage water annually, measure all significant diversions of ground water. Actions in the agreement are intended to stabilize and recover the aquifer.

Eastern Snake Plain Aquifer Restoration

Although the State did not sign the agreement, the state intends to do the following:

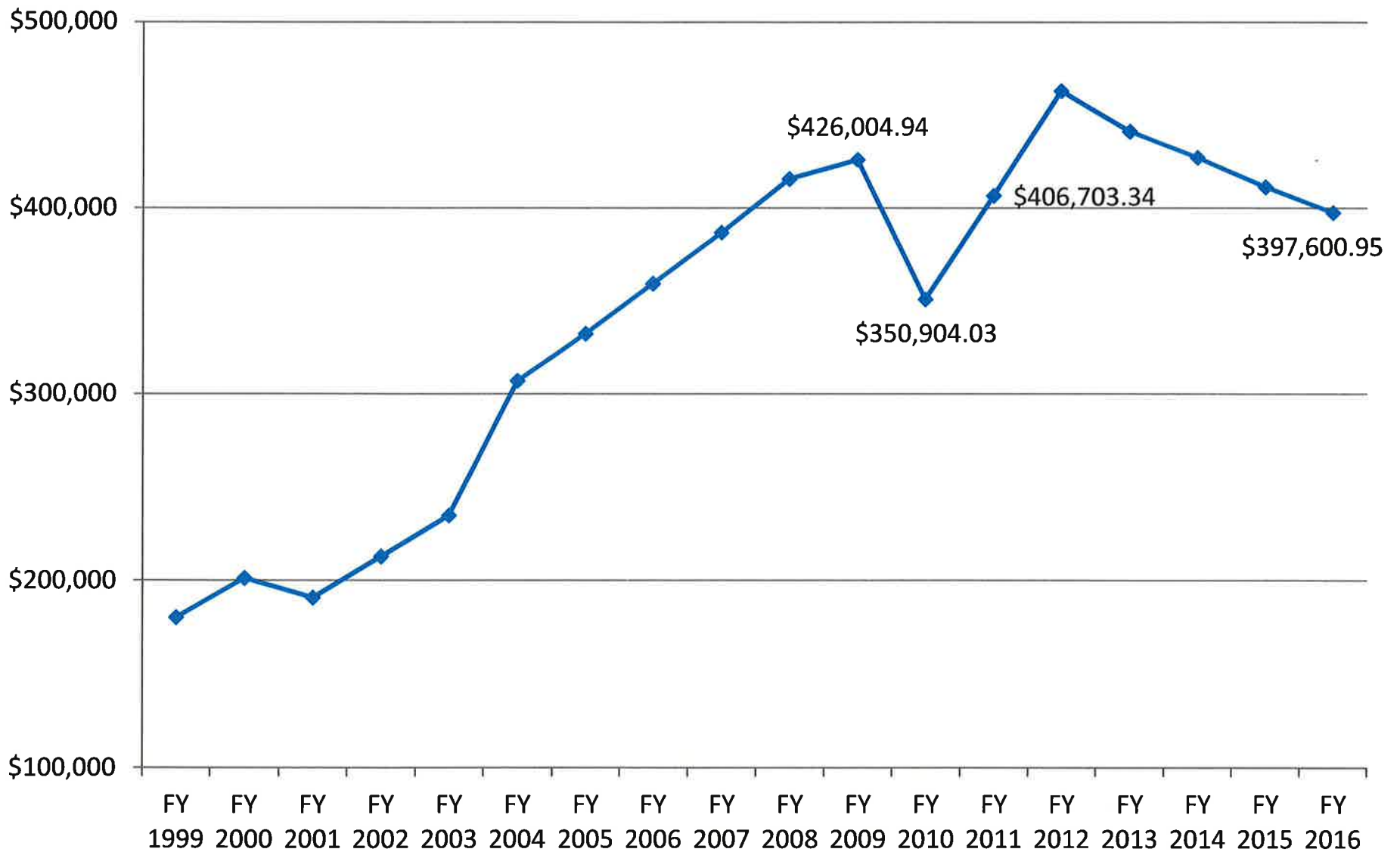
- Recharge the aquifer with surface water by an average of 250,000 acre-feet per year
- Form a ground water management area for water administration – significant factual and legal questions
- Coordinate and administer installation, calibration, and data gathering from 3,500 – 4,000 wells diverting water from the aquifer

Water Sustainability

Priest Lake Outlet



Priest Lake Outlet Fund



Priest Lake Outlet Fund

- IDWR's FY 2005 Appropriation for the Idaho Water Center move included spending authority of \$240,000 from Miscellaneous Revenue Fund and \$120,000 from Petroleum Violation Escrow Funds (Energy Bureau) - SB 1415
 - The majority of the balance in the Miscellaneous Revenue Fund is from Priest Lake Outlet Fund
- In September 2009, IDWR transferred \$100,360.62 from Priest Lake Outlet Fund to close the Idaho Water Center move account

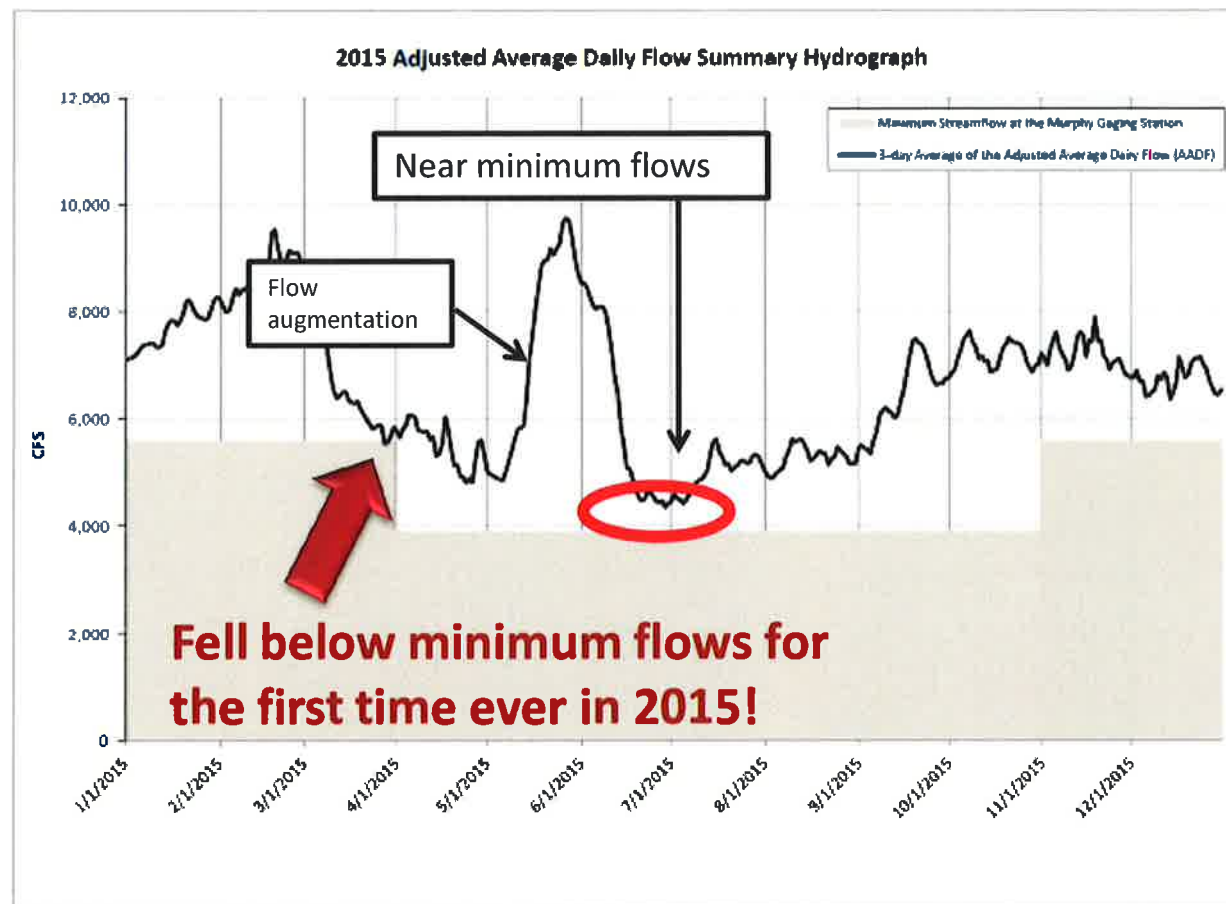
Sustainability of Water Supplies

- Need to ensure water supplies for existing uses, for future growth, and for environmental purposes
- Starts with wise use, administration, and management

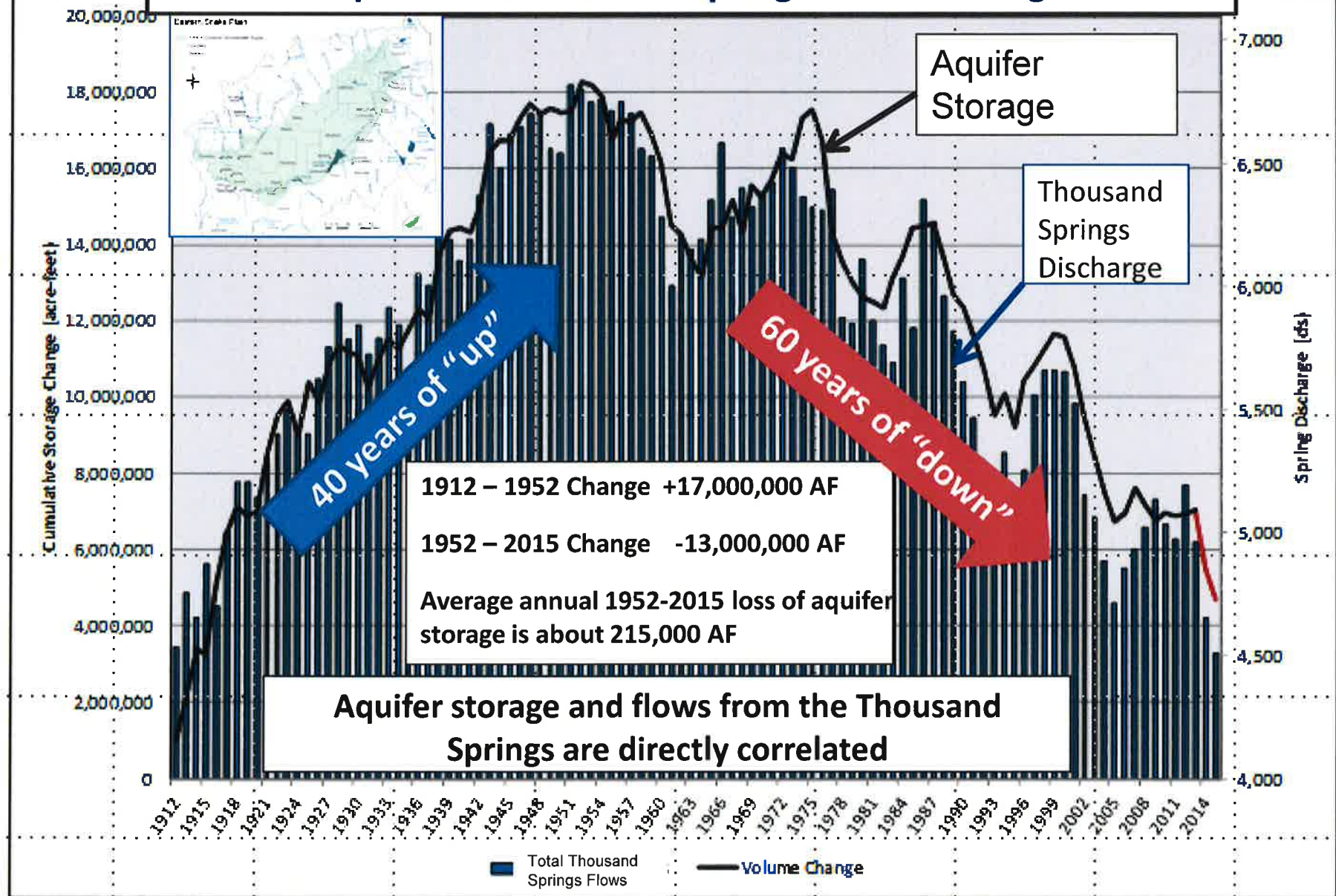


Why So Much Emphasis on Snake River and Aquifer?

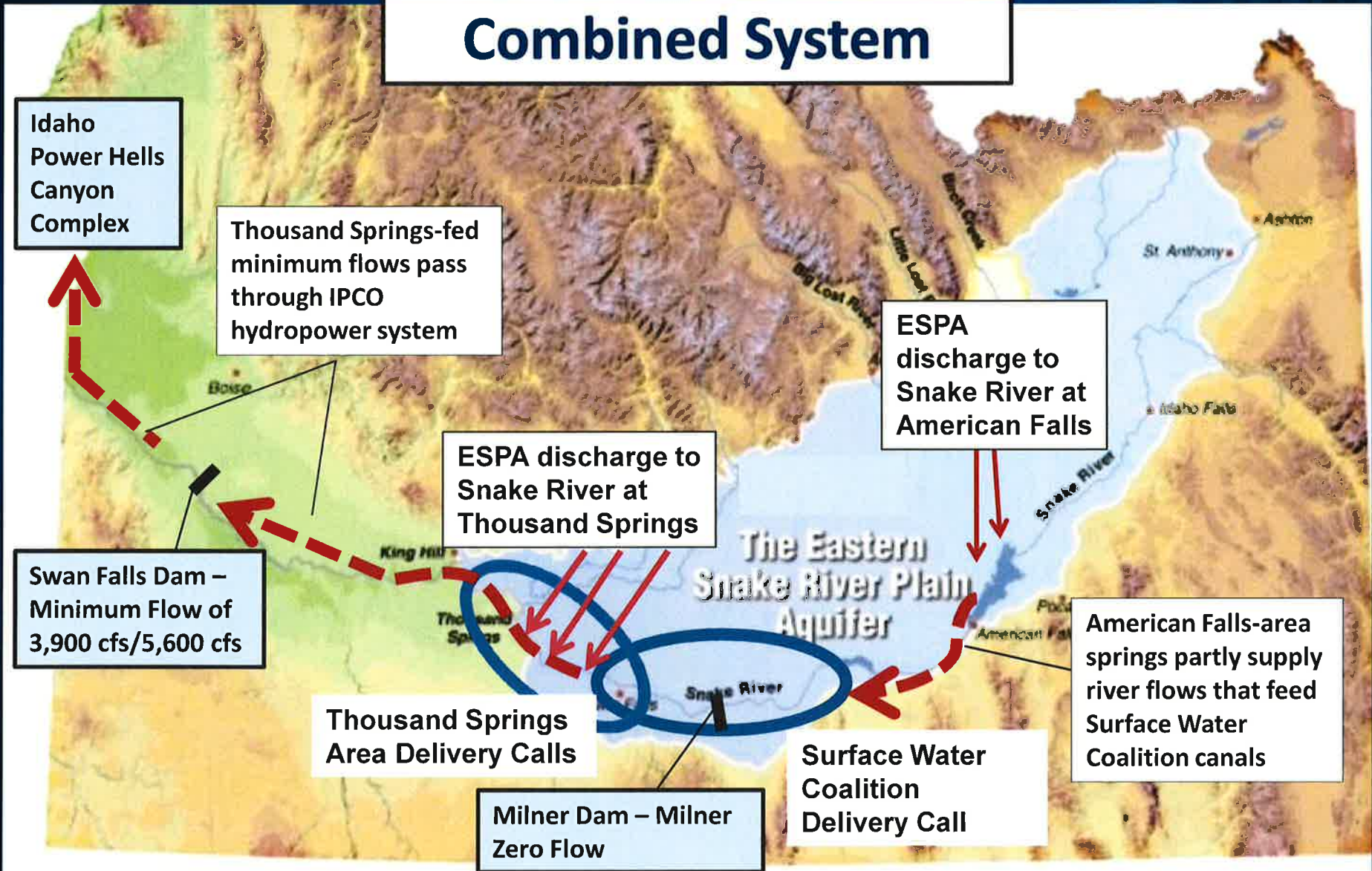
Snake River & aquifer system is at crisis stage



Volume Change of Water Stored Within the Eastern Snake Plain Aquifer and Thousand Springs Total Discharge



Combined System



Economic Value

- Eastern Snake Plain region accounts for about 1/3rd of Idaho's economy
- Curtailments due to Rangen or SWC delivery calls may have significant adverse economic effects



Aquifer Recharge – What We Have Done

•Winter 2014 – 2015

- ✓ Recharged 75,000 acre-feet
- ✓ Recharged every day of winter (Oct. 24 to Mar. 4)
- ✓ Spilled 320,000 acre-feet downriver

•Winter 2015-2016

- ✓ Recharged 36,000 acre feet as of February 2
- ✓ Recharged every day of winter so far starting on Oct. 23
- ✓ Spilled 86,000 acre-feet downriver to date
- ✓ Building capacity

How to Get Water Into the Ground?

- Use unlined canals that divert from river and cross the plain
- Most cost effective way to divert & recharge large volumes of water
- Contract with canal companies & irrigation districts to carry water to recharge
- Creates public/private partnership & outsources work to canal companies
- Supplement with spreading basins

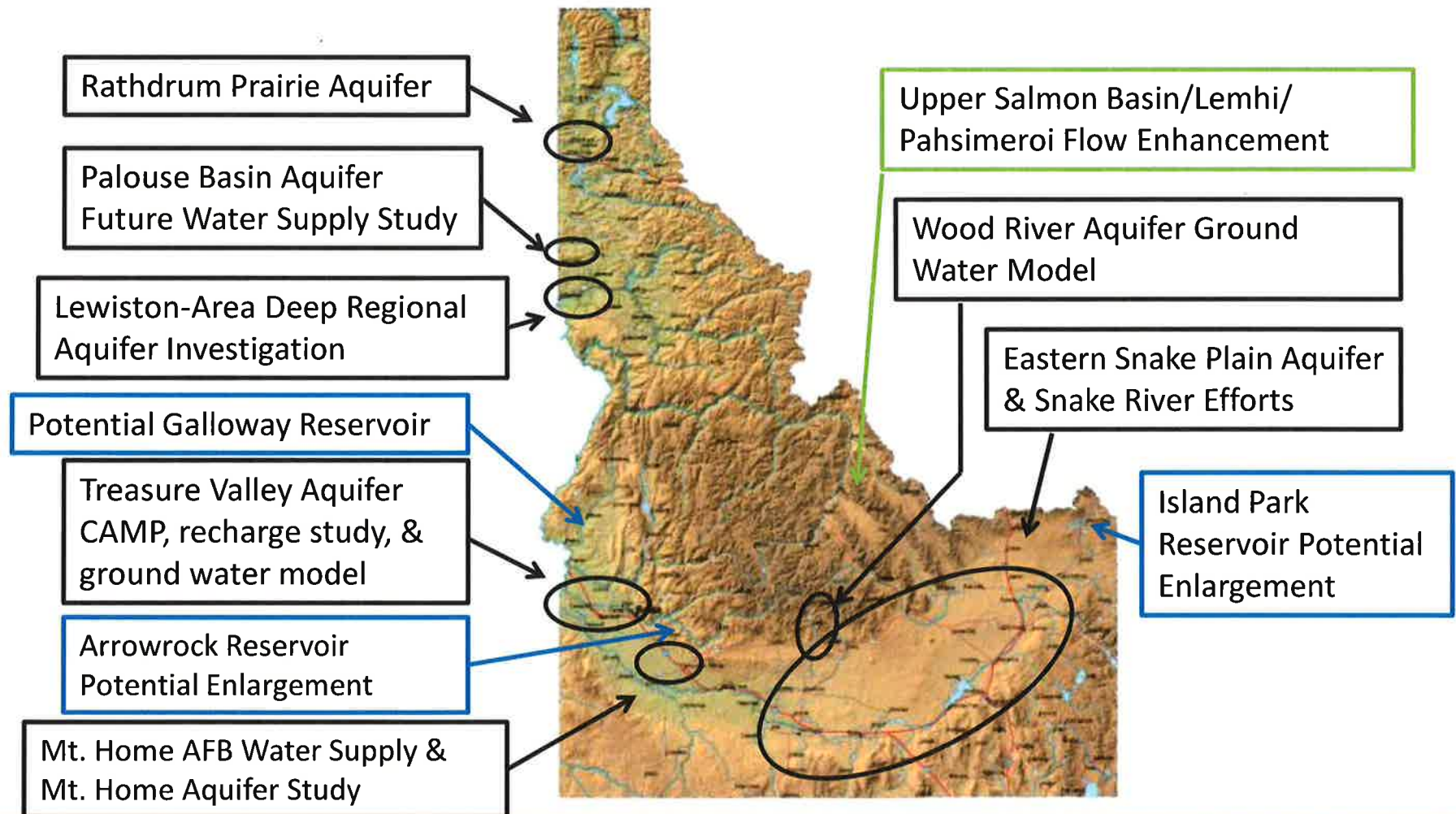


Aquifer Recharge

- Have approximately \$3.7 million in recharge capacity improvement projects underway
- Anticipate about \$8 million under construction next winter and \$10 million the following winter
- Even using existing canals, substantial improvements are needed to carry winter recharge water



Water Sustainability Projects Statewide



Loans for Water Projects

- In FY 2015 the IWRB approved 9 loans totaling \$9.31 million
- Significant projects include:
 - ✓ A&B pump station & pipeline
 - ✓ Last Chance Diversion Dam replacement
 - ✓ Rangen Pipeline
 - ✓ Others



New pump station under construction at A&B Irrigation District, January 2016

Aquifer Recharge

- SW Flow Monitoring
- GW Level Monitoring
- GW & SW Quality Monitoring



Water Sustainability Funding

- Commitment to water sustainability is forever
- Recharge must be ongoing to keep aquifers in balance



Water Sustainability

Working together we
can make this happen!



Water Sustainability Funding

- \$16.5M one-time General Fund appropriation
- \$5M Ongoing General Fund appropriation
- Discontinue \$5M cigarette tax distribution at end of FY 2016

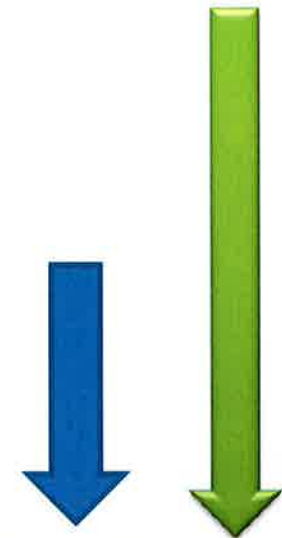
Water Sustainability Funding – ESPA Aquifer Recharge

| Fiscal Year | Projected Fiscal Year Beginning Balance | Projected Income (Gov. Revised Budget) | Projected Expenditures (accelerated schedule) | Projected Fiscal Year End Balance |
|-------------|---|---|--|-----------------------------------|
| 2017 | \$2M | <ul style="list-style-type: none"> •\$5M cigarette tax rec'd in FY16 •\$5M ongoing •\$16.5M one-time •\$4M GWD interim loan payment | <ul style="list-style-type: none"> •\$7.8M construction •\$0.9M O&M •\$1.0M other aquifers | \$22.8M |
| 2018 | \$22.8M | \$5M ongoing | <ul style="list-style-type: none"> •\$10.2M construction •\$1.1M O&M •\$1.0M other aquifers | \$15.5M |
| 2019 | \$15.5M | \$5M ongoing | <ul style="list-style-type: none"> •\$8.0M construction •\$1.3M O&M •\$1.0M other aquifers | \$10.2M |
| 2020 | \$10.2M | \$5M ongoing | <ul style="list-style-type: none"> •\$7.9M construction •\$1.4M O&M •\$1.0M other aquifers | \$4.9M |
| 2021 | \$4.9M | \$5M ongoing | <ul style="list-style-type: none"> •\$6.8M construction •\$2.0M O&M •\$1.0M other aquifers | \$0.1M |

ESPA Recharge – Estimated Project Schedule

| Fiscal Year | Project | Estimated Costs |
|-------------|--|---|
| 2016 | <ul style="list-style-type: none"> •Winter flow protection in Milner-Gooding Canal •Egin Bench new recharge canal •Great Feeder Canal recharge improvement | \$2.2M \$1.0M <u>\$0.5M</u> \$3.7M |
| 2017 | <ul style="list-style-type: none"> •Winter flow protection in North Side Canal •Milner-Gooding Canal MP31 Recharge Site Expansion •Engineering future years projects •Contingency | \$5.0M \$0.5M \$0.7M <u>\$1.6M</u> \$7.8M |
| 2018 | <ul style="list-style-type: none"> •SWID Pipeline winter flow modification •Milner-Gooding MP29/30 area recharge sites •Wood River recharge site •Additional capacity in Blackfoot-area canals •Engineering future years projects •Contingency | \$3.8M \$2.3M \$0.4M \$0.5M \$0.8M <u>\$2.4M</u> \$10.2M |

**Increasing
O&M costs
as system
is built out**



**Increasing
uncertainty
of costs
and timeline**

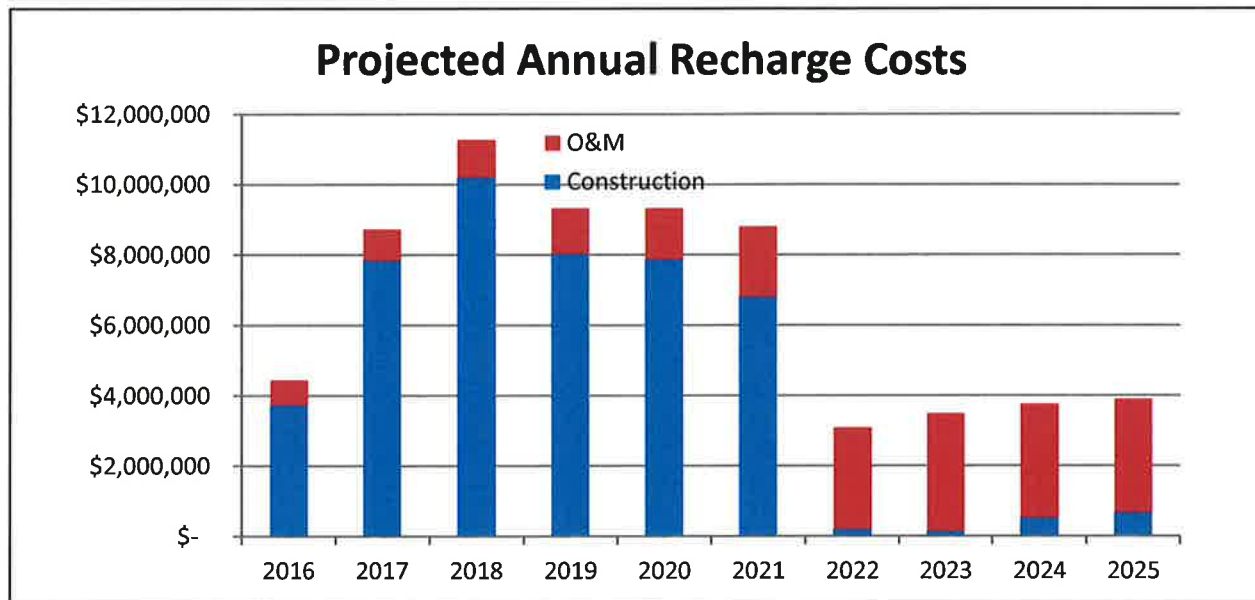
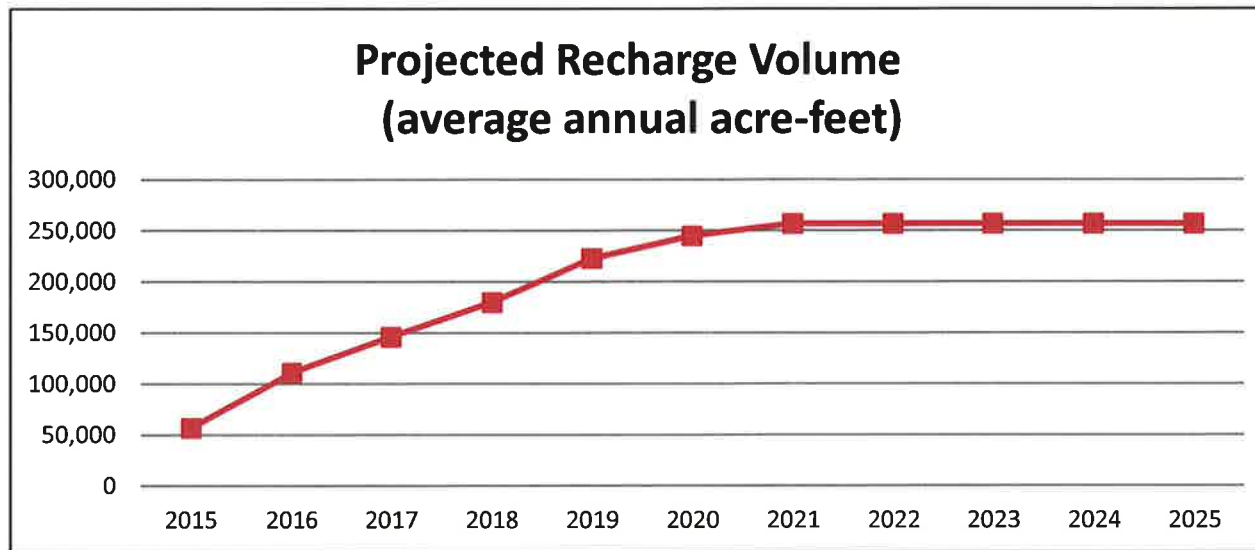
ESPA Recharge – Estimated Project Schedule

| Fiscal Year | Lower Basin | Estimated Costs |
|-------------|--|--|
| 2019 | <ul style="list-style-type: none"> •Recharge facility on A&B pipeline •North Side Canal Wilson Canyon recharge sites •Recharge facilities in Idaho, South Fork, and Blackfoot-area canals •Engineering future years projects •Contingency | \$1.8M \$2.3M \$1.4M \$0.6M <u>\$2.2M</u> \$8.0M |
| 2020 | <ul style="list-style-type: none"> •Pump to recharge project •Recharge facility expansion in Aberdeen-Springfield Canal •Facility repairs/replacements •Contingency | \$4.5M \$0.9M \$0.6M <u>\$1.9M</u> \$7.9M |
| 2021 | <ul style="list-style-type: none"> •Pump to recharge project •Facility repairs/replacements •Contingency | \$4.5M \$0.6M <u>\$1.7M</u> \$6.8M |

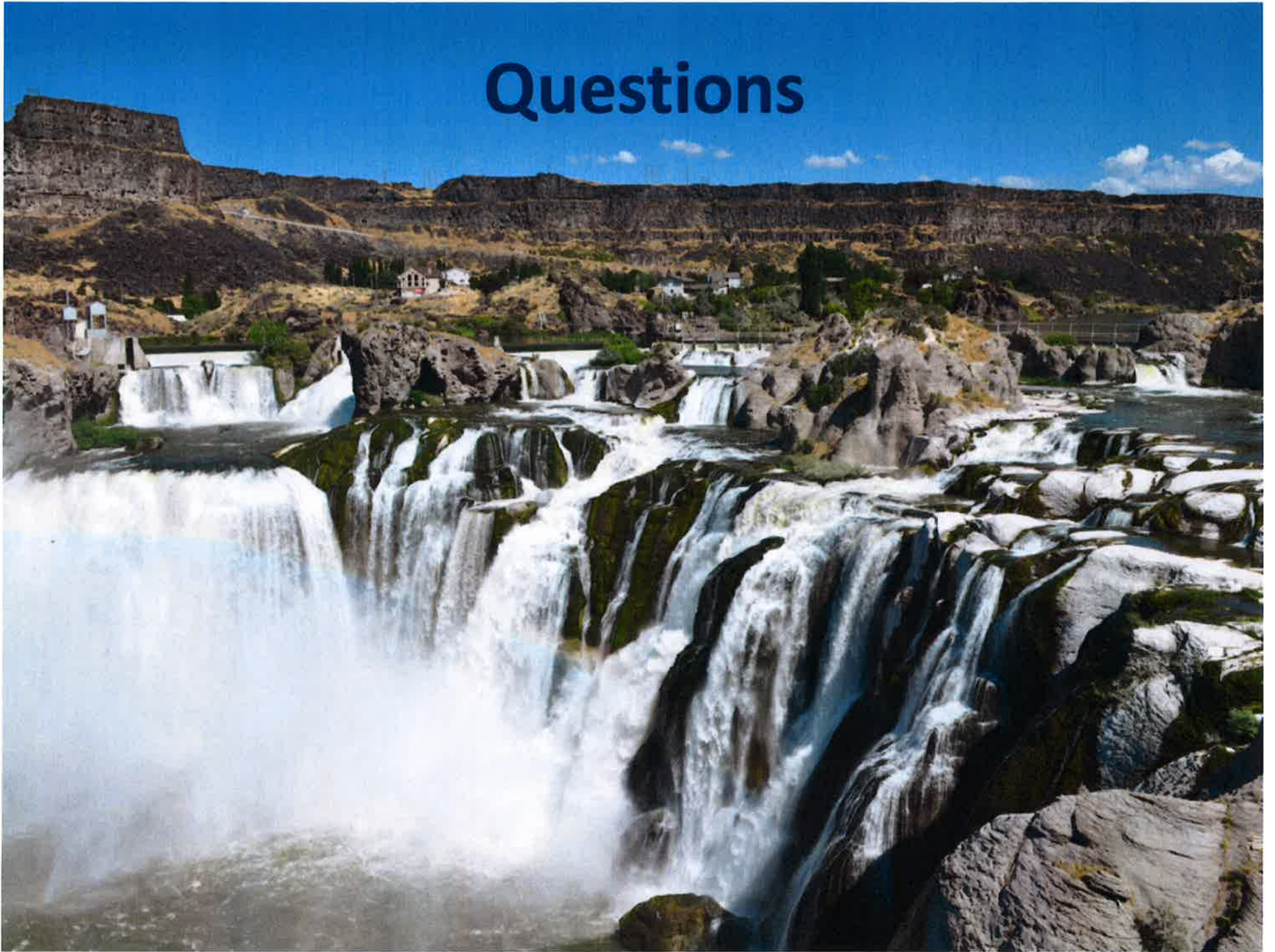
Increasing
O&M costs
as system
is built out

Increasing
uncertainty
of costs
and timeline

ESPA Recharge (Accelerated Schedule)



Questions



Alternative Water Sustainability Funding – ESPA Aquifer Recharge

- \$2.5M one-time General Fund appropriation
- \$5M Ongoing General Fund appropriation
- Continue \$5M cigarette tax distribution
 - Declining source of revenue

Alternative Water Sustainability Funding – ESPA

Aquifer Recharge

| Fiscal Year | Projected Fiscal Year Beginning Balance | Projected Income (Gov. Revised Budget) | Projected Expenditures (accelerated schedule) | Projected Fiscal Year End Balance |
|-------------|---|--|--|-----------------------------------|
| 2017 | \$2M | <ul style="list-style-type: none"> •\$5M cigarette tax rec'd in FY16 •\$5M ongoing •\$2.5M one-time •\$4M GWD interim loan payment | <ul style="list-style-type: none"> •\$7.8M construction •\$0.9M O&M •\$1.0M other aquifers | \$8.8M |
| 2018 | \$8.8M | <ul style="list-style-type: none"> \$5M ongoing \$5M cigarette tax rec'd in FY17 | <ul style="list-style-type: none"> •\$10.2M construction •\$1.1M O&M •\$1.0M other aquifers | \$6.5M |
| 2019 | \$6.5M | <ul style="list-style-type: none"> \$5M ongoing \$5M cigarette tax rec'd in FY18 | <ul style="list-style-type: none"> •\$8.0M construction •\$1.3M O&M •\$1.0M other aquifers | \$6.2M |
| 2020 | \$6.2M | <ul style="list-style-type: none"> \$5M ongoing \$4M cigarette tax rec'd in FY19 | <ul style="list-style-type: none"> •\$7.9M construction •\$1.4M O&M •\$1.0M other aquifers | \$4.9M |
| 2021 | \$4.9M | <ul style="list-style-type: none"> \$5M ongoing | <ul style="list-style-type: none"> •\$6.8M construction •\$2.0M O&M •\$1.0M other aquifers | \$0.1M |

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 08, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|--------------------------------|--|--------------------------------|
| <u>RS24253</u> | Allows counties in Idaho to declare a catastrophic public nuisance and request abatement from public land management agencies when conditions present a danger of wildfire and threatens the health, safety and welfare of the citizens. | Senator Nuxoll |
| <u>RS24398</u> | Provides that no election or confirmation proceedings shall be required when construction of a hydro plant does not involve indebtedness. | Norm Semanko, IWUA |
| <u>RS24399</u> | Provides that entities operating a canal or conduit are not required to obtain an additional water right. | Norm Semanko, IWUA |
| Presentation: | Timber Protective Association 101 - "How We Save the World" Introduction - Jane Wittmeyer, Wittmeyer Associates Mark Woods, Chief Fire Warden, Southern Idaho Timber Protective Association Len Young, Chief Fire Warden, Clearwater-Potlatch Timber Protective Association | |
| <u>SCR135</u> | Water, settlement agreement support | Brian Olmstead, Tim Deeg |
| <u>SCR136</u> | ESPA managed recharge goals | Jeff Raybould, Mat Weaver |
| <u>SCR137</u> | aquifers, managed recharge | Roger Chase, Senator Winder |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

Sen Nuxoll

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 08, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. He said it was nice to see such a large turnout for the meeting.

Chairman Bair called on Senator Nuxoll to present **RS 24253**.

RS 24253 **Senator Nuxoll** said the purpose of this legislation is to allow counties in Idaho to declare a catastrophic public nuisance and request abatement from public land management agencies when the condition of publicly managed land presents a danger of catastrophic wildfire and threatens the health, safety and welfare of the citizens.

MOTION: **Senator Siddoway** moved to print **RS 24253**. **Senator Hagedorn** seconded the motion. During the discussion, **Senator Lacey** said the wording on page 2, line 41, is not consistent and needs to be corrected.

MOTION AND SECOND WITHDRAWN: **Senator Nuxoll** agreed that Senator Lacey had indeed found an error and she asked that **RS 24253** be withdrawn from consideration. **Senator Siddoway** withdrew his motion and **Senator Hagedorn** withdrew his second. **Chairman Bair** honored their requests.

RS 24398 **Norm Semanko**, Executive Director, Idaho Water Users Association, asked that **RS 24398** also be withdrawn for consideration as it had been brought to his attention that more work needed to be done. **Chairman Bair** honored his request.

RS 24399 **Mr. Semanko** said **RS 24399** clarifies that an entity operating a canal or conduit for irrigation or other beneficial use is not required to obtain an additional water right to generate hydropower in the same canal or conduit, using the same water, under certain conditions. He indicated that there will be no significant fiscal impact, but there could be a small reduction in application fees that might otherwise be paid to the Idaho Department of Water Resources.

MOTION: **Senator Heider** moved to print **RS 24399**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Bair** welcomed **Mark Woods**, Chief Fire Warden, Southern Idaho Timber Protective Association (SITPA), who presented a program on protecting Idaho's timber. **Mr. Woods** said that for more than a century, SITPA's firefighters have been protecting private, state and federal lands in west-central Idaho from wildfires.

SITPA was originally formed informally in 1904 as a cooperative effort of the Boise Lumber Company, Barber Lumber Company, A. W. Cook Timber Company and Payette Lumber Company. These companies pooled their workers to provide fire protection for their timberlands. In 1908, these landowners expanded their idea of cooperative forest protection to include the State of Idaho and the predecessors of the Boise and Payette National Forests under a "gentlemen's agreement." By 1911, the Southern Idaho Cooperative Fire Protective Association had been formally organized.

SITPA's mission is committed to the preservation, perpetuation and protection of the forest lands of west-central Idaho. They employ five full-time and 18 to 20 seasonal employees annually and contribute directly to the economies of Adam and Valley Counties. **Mr. Woods** stated that membership is open to any forest landowner within their boundary. Their membership today comprises more than 70 large and small forest landowners, including the state of Idaho and the Potlatch Corporation.

Idaho's timber protective associations are reviewed annually by the Idaho Department of Lands and approved by the State Board of Land Commissioners. Assessment rates are established in Idaho Code and current rates are set by the State Board of Land Commissioners.

Mr. Woods provided a 25-year fire history from 1989 to 2013. In that period, the total number of fires was 1,199, with an average of 48 fires per year. Total acres that were burned amounted to 8,665.

Len Young, Chief Fire Warden, Clearwater-Potlatch Timber Protective Association (C-PTPA), spoke briefly. He said C-PTPA is much like SITPA. The Clearwater Timber Protective Association and the Potlatch Timber Protective Association were separately organized in the early 1900s. In 1966, these two entities merged to form the C-PTPA, a non-corporate entity. Subsequently, on July 16, 1982, the C-PTPA incorporated. The C-PTPA is controlled by forest landowners belonging to its membership and subject to the provisions of the Idaho Forestry Act. The C-PTPA is primarily responsible for the conservation and protection of the forests and forestland within the State of Idaho, specifically the Palouse, Potlatch and North Fork of the Clearwater River drainages.

Mr. Young said they have 19 full-time employees and 30 to 40 seasonal personnel. Over the last 20 years, the C-PTPA had a total of 1,450 fires that burned 1,568 acres.

Chairman Bair thanked Jane Wittmeyer of Wittmeyer Associates for arranging the presentation. He also thanked Mr. Woods and Mr. Young for the information they presented.

SCR 135

Chairman Bair asked Tim Deeg, President, Idaho Ground Water Appropriators, to present **SCR 135**. **Mr. Deeg** said they worked hard and the resolution defines where they are today. The purpose of the resolution is to express legislative support for the June 30, 2015, settlement agreement.

Brian Olmstead, General Manager, Twin Falls Canal Company, also spoke in support of **SCR 135**. He thanked Chairman Bair and Speaker Bedke for their many hours spent on negotiations.

Mr. Deeg brought to the attention of the Committee that the North Side Ground Water District was omitted in the printing of the resolution.

MOTION:

Senator Heider moved that **SCR 135** be referred to the 14th Order for amendment. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

[Chairman Bair's note: Senate rules do not allow for amendment to Senate Concurrent Resolutions. (see Senate Rule 36 (c), Non-amendable Measure). Therefore the motion could not be sent to the 14th Order of Business. On the ensuing day, Majority Leader Davis intercepted the Committee Report in the 6th Order of Business, Reports of Standing Committees, and referred it via unanimous consent request, back to the Senate Resource Committee. Chairman Bair then held the SCR135 in committee indefinitely. A new RS, with corrected language was introduced for printing at a later meeting. It eventually became SCR138.]

SCR 136 **Jeff Raybould**, member of the Idaho Water Resource Board, said the purpose of **SCR 136** is: 1.) to establish an Eastern Snake Plain Aquifer (ESPA) managed recharge goal of 250,000 acre-feet on an average annual basis; 2.) to direct the development of the capacity necessary to achieve the ESPA recharge goal on or before December 31, 2024; and 3.) to provide legislative approval to increase the ESPA CAMP Phase I managed recharge from 100,000 acre-feet to 250,000 acre-feet average annual managed recharge.

Mat Weaver, Deputy Director, Idaho Department of Water Resources (IDWR), also testified in support of **SCR 136**.

MOTION: **Senator Stennett** moved that **SCR 136** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.

SCR 137 **Roger Chase**, Chairman of the Idaho Water Resource Board (IWRB), said that **SCR 137** requests the IWRB identify and implement stabilization and sustainability projects to stabilize and enhance ground water supplies throughout Idaho. This resolution encourages the IWRB to take a proactive approach to reverse the declines in ground water levels in aquifers throughout the State and calls for specific actions in the Treasure Valley, Mountain Home, Big and Little Wood River Basins and the Palouse Basin.

Senator Winder added his support for **SCR 137**.

MOTION: **Senator Stennett** moved that **SCR 137** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

ADJOURNED: **Chairman Bair** thanked the participants who presented the resolutions and the Committee for their support. **Chairman Bair** adjourned the meeting at 2:45 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 10, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---------------------------------------|--|---------------------|
| Minutes | Approval of Minutes, January 25, 2016 | Senator Nuxoll |
| Minutes | Approval of Minutes, January 27, 2016 | Senator Hagedorn |
| Minutes | Approval of Minutes, February 1, 2016 | Senator Heider |
| Gubernatorial Appointee Hearing | Peter Black, Pocatello, Idaho, was appointed to the Park and Recreation Board to serve a term commencing July 28, 2015 and expiring June 30, 2021. | |
| <u>RS24454</u> | Revised Senate Concurrent Resolution settlement agreement. | Chairman Bair |
| <u>RS24383</u> | Senate Joint Memorial thanking the US Army Corps of Engineers for funding for watercraft inspection stations | Senator Heider |
| <u>RS24428</u> | Provides a process for the IDFG to have an independent entity carry out drawings for tags for controlled hunts. | Senator Brackett |
| <u>RS24398C1</u> | Provides that no election or confirmation proceedings shall be required when construction of a hydro plant does not involve indebtedness. | Norm Semanko, IWUA |
| <u>RS24424</u> | Oil and gas administrative procedures | Kate Haas |
| <u>S 1244</u> | Underground storage tanks | Orville Green, DEQ |
| <u>S 1222</u> | Ground water, petitions, annexation | Lynn Tominaga, IGWA |
| <u>S 1223</u> | Ground water, nonmembers | Lynn Tominaga, IGWA |
| <u>S 1224</u> | Ground water, alternative means | Lynn Tominaga, IGWA |
| <u>S 1225</u> | Ground water, debt, elections | Lynn Tominaga, IGWA |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Bair | Sen Bayer |
| Vice Chairman Vick | Sen Hagedorn |
| Sen Siddoway | Sen Stennett |
| Sen Heider | Sen Lacey |
| Sen Nuxoll | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 10, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. He said that approval of Minutes was the first order of business.

MINUTES APPROVAL: **Senator Nuxoll** moved to approve the Minutes of January 25, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hagedorn** moved to approve the Minutes of January 27, 2016. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Heider** moved to approve the Minutes of February 1, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTEE HEARING: **Peter Black**, Pocatello, Idaho, was appointed to the Idaho Parks and Recreation Board to serve a term commencing July 28, 2015, and expiring June 30, 2021. Mr. Black has lived all his life in Idaho, except for the first two years. His family owned ranches and farms in the Salmon and Challis areas and he understands the issues of rural Idaho as well as issues of urban concern.

Mr. Black's education consisted of:

- Pocatello High School, 1964
- Idaho State University, Bachelor's Degree - Elementary Education, 1975
- Idaho State University, Library Science Endorsement, 1986
- Idaho State University, Master's Degree - Education Administration, 1998

After 34 years, Mr. Black retired from the Pocatello/Chubbuck School District in June 2006. He worked in various capacities as a classroom teacher, school librarian/media specialist, technology staff member and public information officer.

Mr. Black stated that he was elected to the Idaho House of Representatives in 1982 and served until 1996. His committee assignments were Education, Business, Local Government, Joint Finance and Appropriations and Ways and Means. From 1986 to 1996, Mr. Black was House Assistant Minority Leader.

Mr. Black was a member of the Pocatello Parks and Recreation Board for about 10 years, serving as a representative for the school district, then later as a "citizen-at-large," and also serving as chairperson for the board for most of that time. When the Region 5 position on the Idaho Parks and Recreation Board became available, Mr. Black applied for the position. He indicated that he has the experience needed and would be a very good fit for the Idaho Parks and Recreation Board.

Chairman Bair thanked Mr. Black for speaking to the Committee and said that voting on his appointment would take place at the Committee's next meeting.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Vick so that he could present **RS 24454**.

RS 24454 **Chairman Bair** said there was an error in the previous RS that dealt with the settlement agreement. There was an omission of a water district. **RS 24454** corrects that.

MOTION: **Senator Stennett** moved to print **RS 24454**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Vick passed the gavel back to Chairman Bair.

RS 24383 **Senator Heider** presented this joint memorial and the purpose was to thank the U.S. Army Corps of Engineers for appropriating \$4 million in funding for watercraft inspection stations as authorized by the Water Resources Reform and Development Act. It also requests that Congress ensure the continued appropriation of these funds in the fiscal year 2017 budget.

MOTION: **Senator Heider** moved to print **RS 24383** and that it be sent to the 10th Order. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

RS 24428 **Senator Brackett** said the purpose of **RS 24428** is to provide a process for the Idaho Department of Fish and Game to have an independent entity carry out drawings for tags for controlled hunts. He said the department shall contract with a private entity to conduct drawings for controlled hunt permits and the drawings must be conducted using a computer program that awards permits based on a random order of selection. The estimated cost is approximately \$102,500 depending on the number of applications and the level and type of service desired. Senator Brackett provided a list of co-sponsors that numbered 30.

MOTION: **Senator Lacey** moved to print **RS 24428**. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

RS 24398C1 **Norm Semanko**, Executive Director, Idaho Water Users Association, Inc., presented **RS 24398C1**. This legislation clarifies that an irrigation district is not required to conduct an election or confirmation proceeding when construction of a hydroelectric plant does not involve any indebtedness. It has no fiscal impact to the General Fund.

MOTION: **Senator Heider** moved to print **RS 24398C1**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

RS 24424 **Kate Hass**, representing Kestrel West, said that **RS 24424** streamlines the administrative permitting process for the oil and gas industry, providing certainty and clarity for developers, state agencies and members of the public who own mineral interests. Currently, an oil and gas application in Idaho can take more than 400 days to process. The bill seeks to address that problem by clarifying the permitting process for drilling permits.

MOTION: **Senator Heider** moved to print **RS 24424**. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

- S 1244** **Orville Green**, Administrator, Waste Management and Remediation, Department of Environmental Quality (DEQ), said the purpose of this legislation is to provide DEQ the authority to begin collecting tank fees to supplement the remaining federal grant dollars and state matching funds. DEQ's Underground Storage Tank (UST) program regulates approximately 3,350 tanks at approximately 1,180 facilities throughout the state. Due to grant reductions and recently released new UST rules that increase requirements and costs for the agency, it is necessary to begin collecting tank fees.
- DEQ has requested general fund appropriations to support the UST program while a fee program is developed and implemented. If the proposed fee program is not approved, ongoing General Fund appropriations will be necessary to maintain program primacy.
- Fees to tank owners are limited to \$100 per tank per year. If the year-end fee balance exceeds \$35,000, fees for the following year will be reduced to avoid excessive buildup of funds. All fees must only be used for the UST program.
- TESTIMONY:** **Suzanne Budge**, representing the Idaho Petroleum Council, stated that they support this legislation.
- MOTION:** **Senator Siddoway** moved that **S 1244** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Siddoway will be the floor sponsor.
- S 1222** **Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators, Inc., presented **S 1222**. He said this places irrigators and nonirrigators on equal footing by clarifying that nonirrigators who join a ground water district for mitigation purposes only may be subject to all mitigation plans and activities of the district.
- MOTION:** **Senator Hagedorn** moved that **S 1222** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Hagedorn will be the floor sponsor.
- S 1223** **Mr. Tominaga** said this legislation gives ground water districts the ability to contract with nonmembers who wish to participate in and obtain the benefits of the district's mitigation plans. Ground water districts have geographical boundaries and many mitigation plans have geographical and other limitations. This legislation gives districts the ability to decline to contract with a nonmember if the district board of directors determines it is not in the district's best interests.
- MOTION:** **Senator Lacey** moved that **S 1223** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Lacey will be the floor sponsor.
- S 1224** **Mr. Tominaga** presented **S 1224** and said this legislation amends the Ground Water District Act. It will enable the ground water districts to impose assessments based on the number of acres authorized to be irrigated as an alternative to the quantity of water authorized to be diverted.
- MOTION:** **Senator Stennett** moved that **S 1224** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Senator Stennett will be the floor sponsor.
- S 1225** **Mr. Tominaga** said that **S 1225** also amends the Ground Water District Act. It clarifies that ground water districts may incur short-term debt without holding an election or seeking judicial confirmation. As presently written, districts are required to obtain judicial confirmation prior to incurring any financial obligation, even routine expenses such as utilities.

MOTION: **Senator Siddoway** moved that **S 1225** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

ADJOURNED: **Chairman Bair** adjourned the meeting at 3 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE
1:30 P.M.
Lincoln Auditorium WW02
Monday, February 15, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|--|--|--|
| Presentation | Fire Suppression and Allocation of Associated Costs Between State, Federal and Private Landowner Stakeholders | Tom Schultz, Director, Department of Lands |
| <p>Upon adjournment of the Joint Meeting, the Senate Resources & Environment Committee will convene in <u>WW17</u> to conduct Committee business.</p> | | |
| Gubernatorial Appointee Consideration | Peter Black was appointed to the Park and Recreation Board to serve a term commencing July 28, 2015 and expiring June 30, 2021 | |
| <u>RS24253C1</u> | Allows counties in Idaho to declare a catastrophic public nuisance and request abatement | Senator Nuxoll |
| <u>RS24511</u> | Oil and Gas administrative procedures | Kate Haas |
| <u>RS24416</u> | Provides a process for claims in the event of damage to bees and beehives by bears. | Senator Lee |
| Budget Issues | Update relating to Resource budget | Chairman Bair |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Bair | Sen Bayer |
| Vice Chairman Vick | Sen Hagedorn |
| Sen Siddoway | Sen Stennett |
| Sen Heider | Sen Lacey |
| Sen Nuxoll | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, February 15, 2016

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium WW02

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey
Chairman Raybould, Vice Chairman Gestrin, Representatives Moyle, Andrus, Shepherd, Vander Woude, Gibbs, Miller, Bateman, Burtenshaw, Mendive, Youngblood, Pence, Erpelding and Rubel

ABSENT/ EXCUSED: Representatives Wood, Boyle and VanOrden

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the joint meeting of the Senate Resources and Environment Committee and the House Resources and Conservation Committee (Committees) to order at 1:30 p.m. He welcomed the audience as well as the members of the Idaho Department of Lands (IDL).

ANNOUNCEMENTS: **Chairman Bair** announced that the meeting needed to be completed by 2:45 p.m. as the auditorium has been scheduled for another group to meet at 3 p.m. Following adjournment of the joint meeting, the House Committee will meet in EW40 and the Senate Committee will meet in WW17 so that each Committee may conduct Committee business.

INTRODUCTION: **Chairman Bair** asked Tom Schultz, Director, IDL, to introduce the speaker for today's program. **Director Schultz** introduced David Groeschl, State Forester and Deputy Director of Forestry and Fire, IDL, who gave a PowerPoint presentation on "Fire Suppression and Allocation of Associated Costs between State, Federal and Private Landowner Stakeholders" (see attachment 1).

PRESENTATION: **Mr. Groeschl** said there are approximately 53.5 million acres of land in Idaho that is divided into 16 forest protective districts. Two of these districts cover lands protected by the Forest Service and the Bureau of Land Management (BLM), and two are tribal districts. The State of Idaho, IDL and two timber protective associations provide direct wildfire protection on approximately 3 million acres of private, state and some federal forest lands.

Some state and private lands are located within federal protection areas, while some federal lands are located within state protection areas. These are known as "offset acres." Through an "offset agreement," the federal agencies protect approximately 900,000 acres of private and state endowment land around Idaho in exchange for the State protecting approximately 800,000 acres of federal land. Forested lands in Idaho are included in the offset agreement; rangelands in Idaho are not included.

More than 200 local and rural fire districts provide structure protection in non-urban parts of the State that would otherwise not have structural fire protection. Six rangeland fire protection associations assist the BLM in providing initial attack on rangelands in southern Idaho.

Mr. Groeschl stated that with regard to the six rangeland fire protection associations, there are four additional areas being considered. There have been 230 ranchers trained, and they provided assistance on 30 fires in 2015, including the Soda Fire.

Mr. Groeschl explained that fire protection funding is grouped into two categories: preparedness and suppression. Preparedness is providing resources to be ready in advance of an actual fire. It includes hiring, training, tools, supplies and purchasing or leasing equipment such as fire engines. Preparedness on State-protected lands is funded by a combination of assessments levied on parties who own forested land, federal funds and the State General Fund. The forest land assessment is 60 cents per acre with a surcharge for forested parcels with structures.

Suppression is when personnel and equipment are dispatched to a fire managed by the State, and payment is made from the General Fund through the deficiency warrant authority. This allows IDL to pay promptly and the practice has been used since the early 1970s.

Wildfires within Idaho during the 2015 fire season burned approximately 742,000 acres and expenditures amounted to \$303,537,519. Following is a list of the owners and acres burned:

- U.S. Forest Service 351,000 acres burned
- Bureau of Land Management 230,000 acres burned
- Private 119,000 acres burned
- IDL 28,000 acres burned
- Bureau of Indian Affairs 11,000 acres burned
- Other 3,000 acres burned

The largest and most expensive fire was the Clearwater Complex Fire. It burned 68,100 acres and cost \$25.2 million. Sixty-two residences and 211 outbuildings were lost.

ADJOURNED: **Chairman Bair** thanked Mr. Groeschl for his presentation, then adjourned the joint meeting at 2:45 p.m.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 2:50 p.m. in WW17 to conduct some Committee business.

GUBERNATORIAL APPOINTEE CONSIDERATION: Peter Black was appointed to the Idaho Parks and Recreation Board to serve a term commencing July 28, 2015, and expiring June 30, 2021.

MOTION: **Senator Lacey** moved to send the Gubernatorial appointment of Peter Black to the Idaho Parks and Recreation Board to the floor with recommendation that he be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Lacey will be the floor sponsor.

RS 24253C1 **Senator Nuxoll** presented **RS 24253C1** and said it allows counties in Idaho to declare a catastrophic public nuisance and request abatement from federal land management agencies when the condition of federally managed land presents a danger of catastrophic wildfire and threatens the health, safety and welfare of the citizens. This applies only to federal lands.

MOTION: **Senator Nuxoll** moved to print **RS 24253C1**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

RS 24511 **Ms. Kate Haas**, representing Alta Mesa Idaho, said **RS 24511** streamlines the administrative permitting process, providing certainty and clarity for developers, state agencies and members of the public who own mineral interests. Currently, an application can take more than 400 days to process. This bill seeks to address that problem by clarifying the permitting process for drilling permits.

MOTION: **Senator Siddoway** moved to print **RS 24511**. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

RS 24416 **Senator Lee** presented **RS 24416** and stated that this RS provides a process for claims in the event of damage to bees and beehives by bears. This bill amends Idaho Code § 36-1109 by adding the words "bees" and "beehives" to the Expendable Big Game Depredation Fund. Currently the fund is only authorized to pay for honey.

MOTION: **Senator Stennett** moved to print **RS 24416**. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Chairman Bair** said he is to speak Wednesday morning to JFAC regarding any financial concerns related to resources and he asked the Committee for their input. Water recharge seemed to be the main topic.

ADJOURNED: **Chairman Bair** adjourned the meeting at 3:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary



IDAHO DEPARTMENT OF LANDS

Woodrat Fire, 2015

2015 Fire Season – “The Perfect Storm”
Joint House & Senate Resource Committee Hearing
February 15, 2016

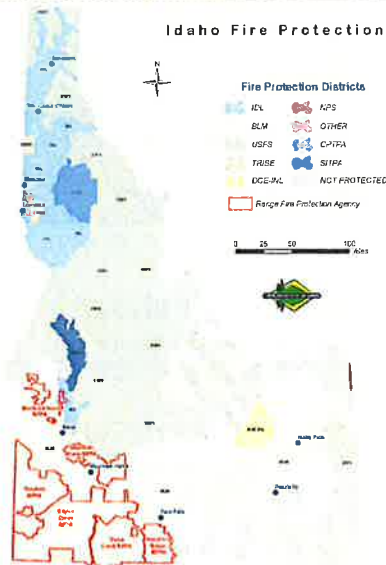
Presented by State Forester David Groeschl
Idaho Department of Lands

Content



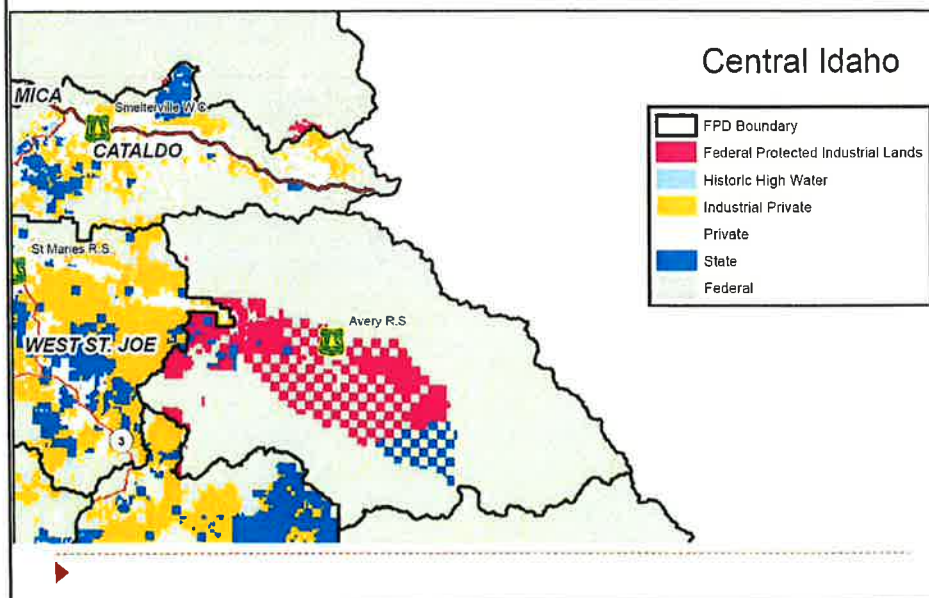
- ▶ IDL's Forest Protective Districts
- ▶ The Perfect Storm
- ▶ 2015 Fire Season Summary
- ▶ Fire Funding
 - ▶ Idaho
 - ▶ Other States

Wildfire Response in Idaho

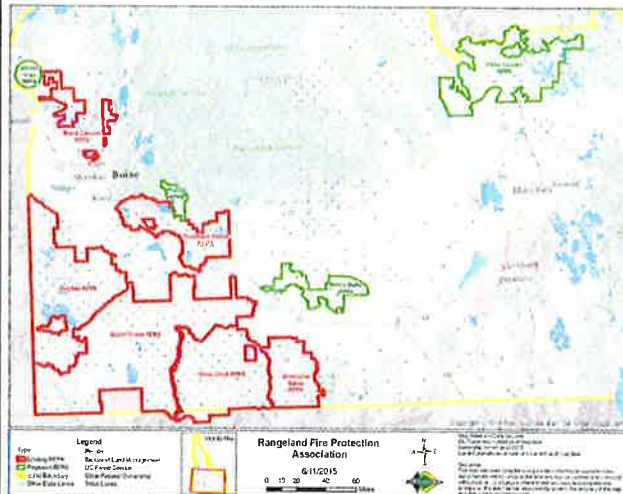


- ▶ 14 forest protective districts
 - ▶ U.S. Forest Service
 - ▶ Bureau of Land Management
 - ▶ Six rangeland fire protection associations assist BLM
 - ▶ State of Idaho
 - ▶ 10 IDL districts
 - ▶ 2 timber protective associations
 - ▶ 6.3 million acres of mostly privately-owned and State-owned forests (78% WUI)
- ▶ >200 local/rural fire districts provide structure protection in non-urban parts of state

Offset Agreement



Rangeland Fire Protection Associations

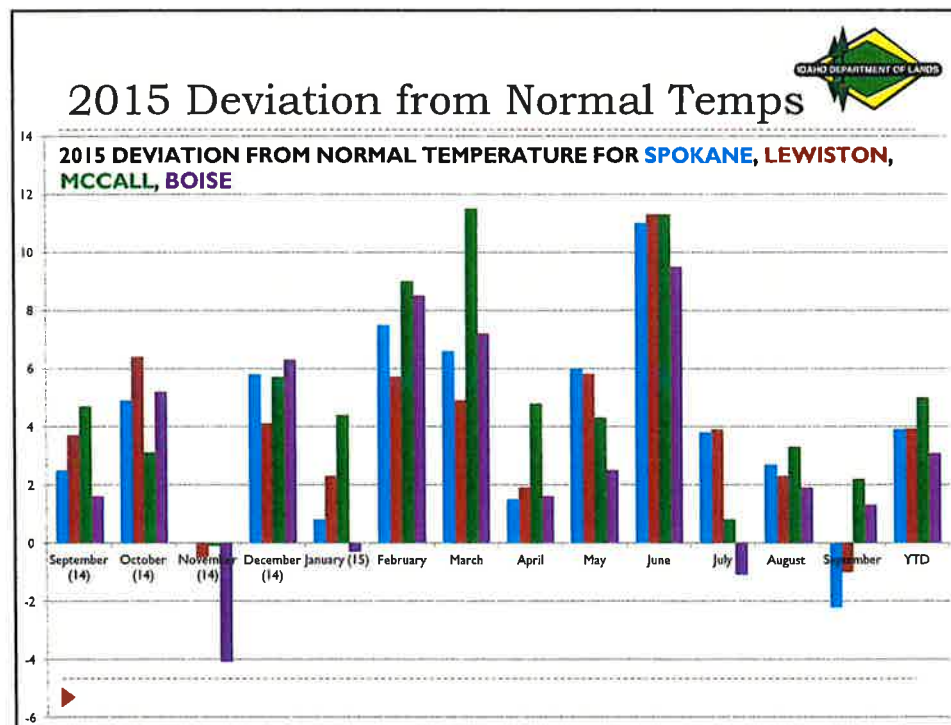
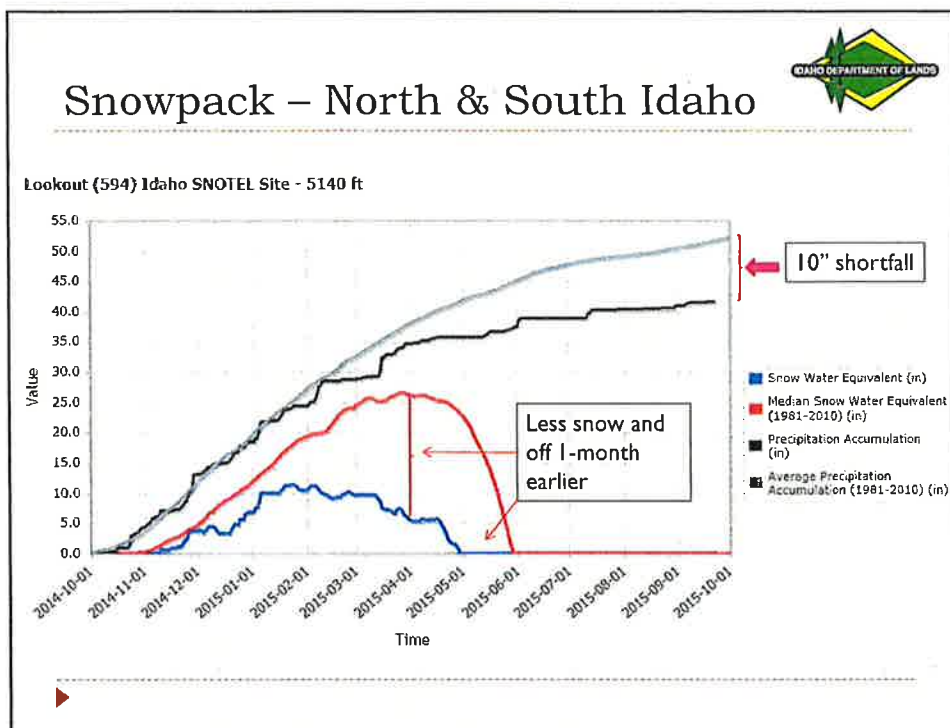


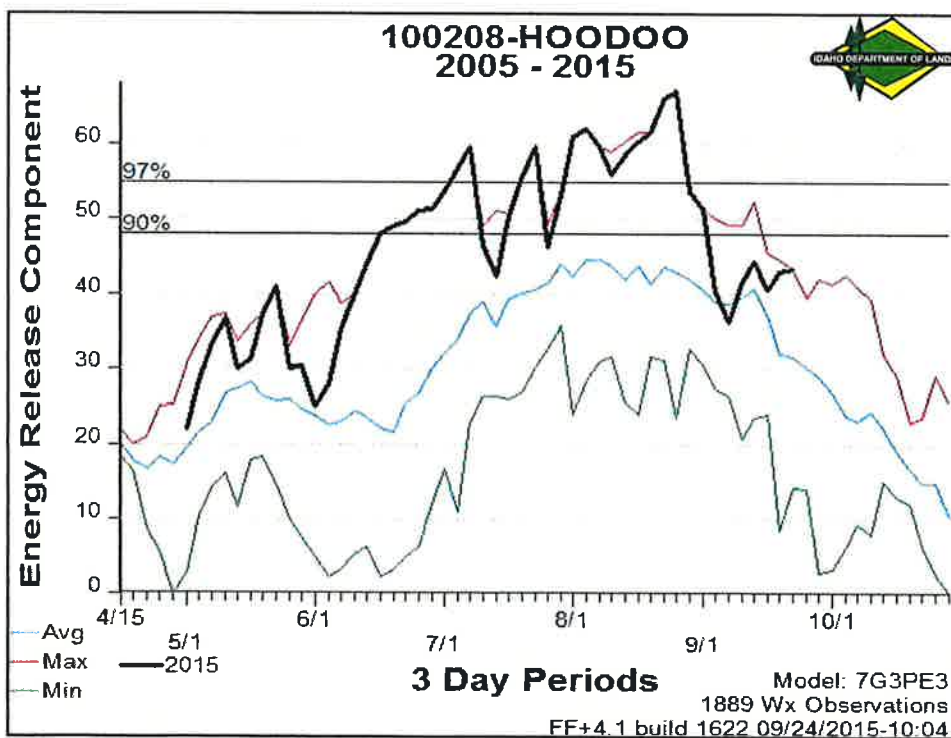
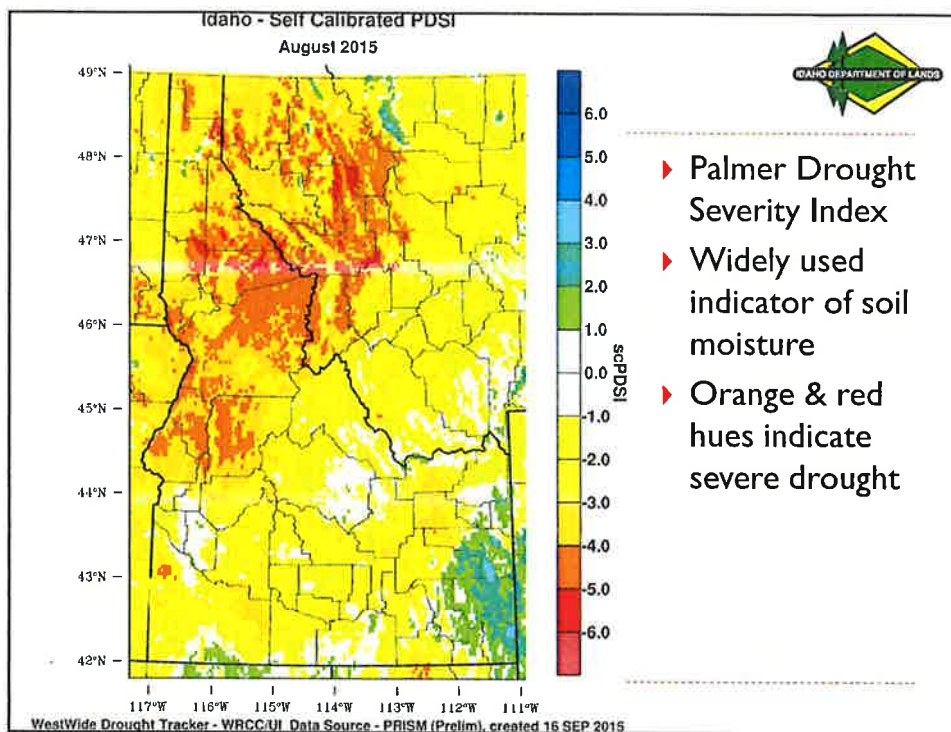
- ▶ 6 established associations
- ▶ 4 add'l areas being considered
- ▶ 982,000 ac. private rangeland protected
- ▶ Secondary protection on 4.9 million ac. federal & state land
- ▶ 230 ranchers trained
- ▶ Assisted on 30 fires in 2015, including Soda Fire

The Perfect Storm – 2015 Fire Season



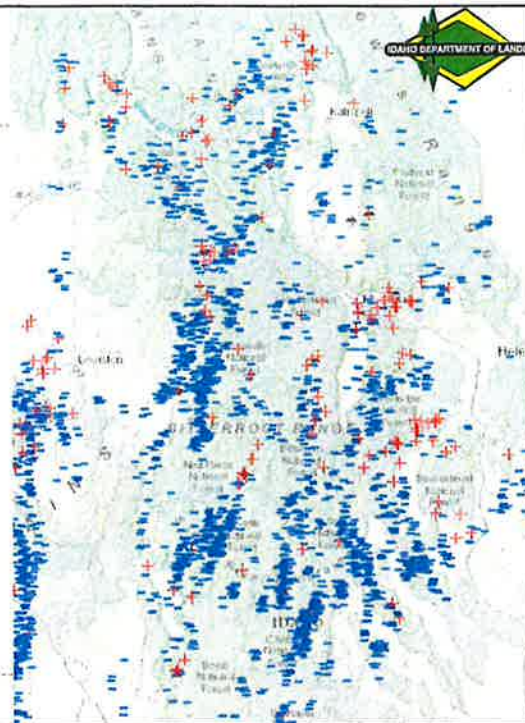
- ▶ Mild Winter - below normal snowpack (~50% of normal)
- ▶ Warm, Dry Spring and Summer
 - ▶ 2nd warmest year on record (3F above normal)
 - ▶ Warmest June in 120 years (11F above normal)
 - ▶ Extremely dry Apr-Aug in northern half of state
 - ▶ Normal precip in Southern Idaho
- ▶ Record low soil and fuel moisture levels
- ▶ Record low humidity levels
- ▶ Ignitions - August 9 - 11
- ▶ Probability of ignitions, fire indices, fire behavior
- ▶ Resource Shortage – Regionally & Nationally





August 11, 2015

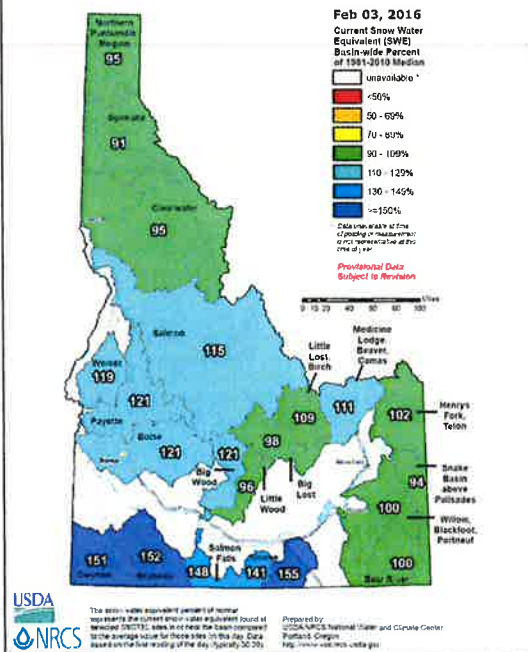
- ▶ 24-hour Lightning Strikes – 8:00 am August 10 to 8:00 am August 11
- ▶ 135+ starts on IDL & USFS protection



Drought Relief?

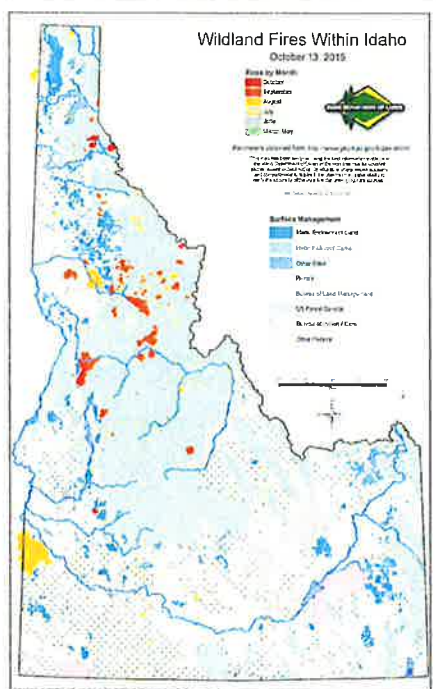
- ▶ Wet December/January
- ▶ Tempered drought stress across northern Idaho
- ▶ Snowpack recovery
- ▶ Strong El Nino in place
- ▶ Subpar 2nd half of winter, particularly in North Idaho
- ▶ Persistence of drought heading into summer 2016
- ▶ Central Idaho mountains to fare better

Idaho SNOTEL Current Snow Water Equivalent (SWE) % of Normal

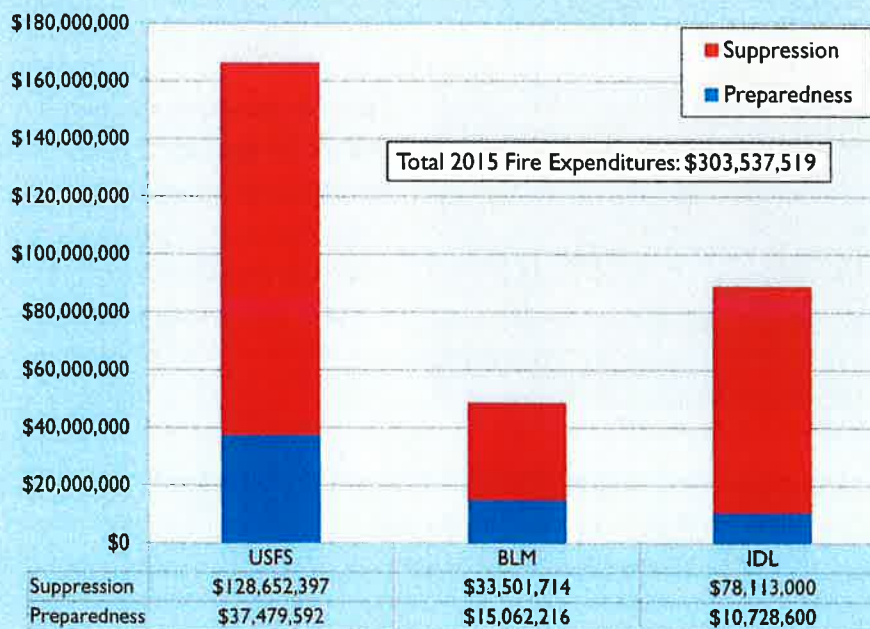


2015 Fire Season

- ▶ Total acres burned in Idaho
= Approx. 742,000 ac.
- ▶ Acres burned by owner
 - ▶ USFS 351,000 ac.
 - ▶ BLM 230,000 ac.
 - ▶ Private 119,000 ac.
 - ▶ IDL 28,000 ac.
 - ▶ BIA 11,000 ac.
 - ▶ Other 3,000 ac.

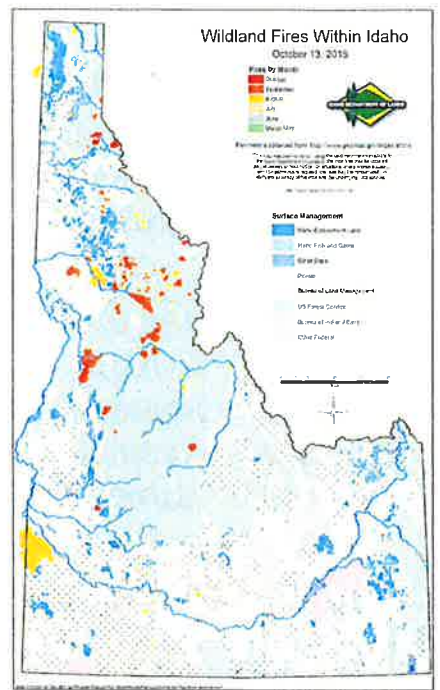


2015 Agency Fire Season Costs for Idaho



2015 Fire Season

- ▶ Acres burned in IDL protection = 78,571 ac.
 - ▶ 391% of 20-year average
- ▶ 321 fires in IDL protection
 - ▶ 102% of 20-year average
 - ▶ Half human-caused



2015 Fire Season



Clearwater Complex Fire, 2015

- ▶ 16 IDL incidents required use of 27 incident management teams
- ▶ Emergency disaster declaration (FEMA) for portions of Clearwater Complex Fires, Municipal Fire, Cape Horn Fire
- ▶ Largest, most expensive fire = Clearwater Complex Fires
 - ▶ \$25.2 million and 68,100 acres burned
 - ▶ 62 residences, 211 outbuildings lost



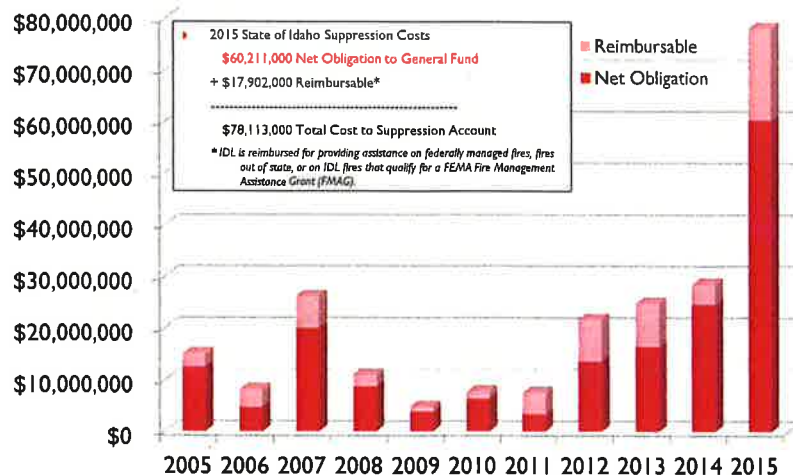
2015 Fire Season

► Additional 2015 Fire Season Highlights

- IDL hosted fire safety training for loggers and other contractors mid-season
- Rare large scale closure of endowment land for public safety (11,248-acre block in Silver Valley)
- Extended "closed fire season," requiring fire safety burn permits past October 20
- Worked with industry to put in place voluntary measures for loggers in areas covered by stage 2 fire restrictions
- IDL required extra steps for agricultural burners in northern Idaho
- Firewood cutting limitations placed on endowment lands in areas covered by stage 2 fire restrictions
- 3,080 "man days" of help from Canadians through the Northwest and Northeast Firefighting Compacts



IDL Suppression Costs





Preparedness vs. Suppression Costs

Preparedness Costs

- ▶ Includes cost to hire, train and equip permanent and seasonal fire staff

Funded by combination of:

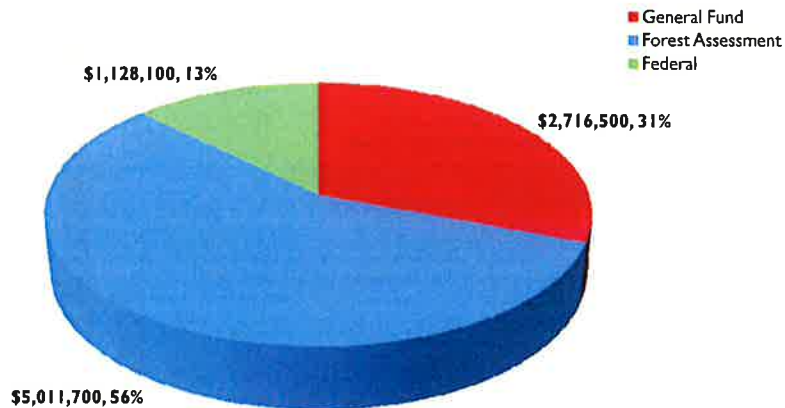
- ▶ General Fund (31%)
- ▶ Federal funds (13%)
- ▶ Forest Assessments (56%)

Suppression Costs

- ▶ Payment for resources used for initial attack of fire starts and for resources assigned to an IDL project fire; includes aircraft contracts
- ▶ Suppression costs paid by General Fund through deficiency warrant authority

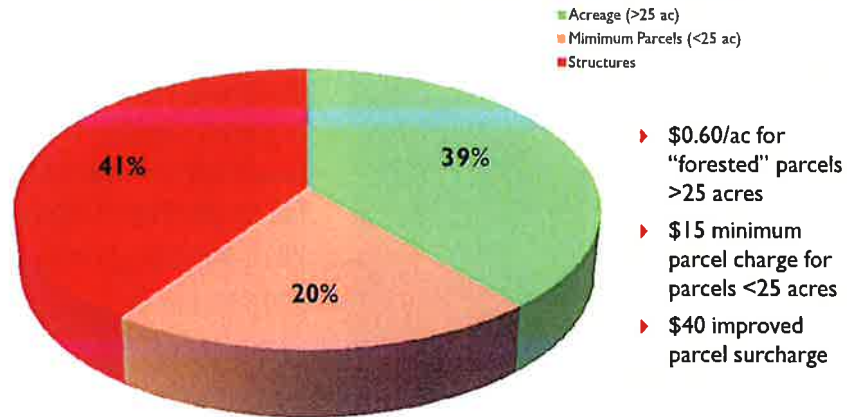


2016 Preparedness Appropriation



Total FY16 Preparedness (includes FY16 Fire Supplemental): \$8,856,300

Annual Forest Assessment (IC 38-111)



NOTE: Acreage assessment includes \$584,587 from endowment forest lands (974,587 acres x \$0.60/acre)



Why General Fund for Preparedness?

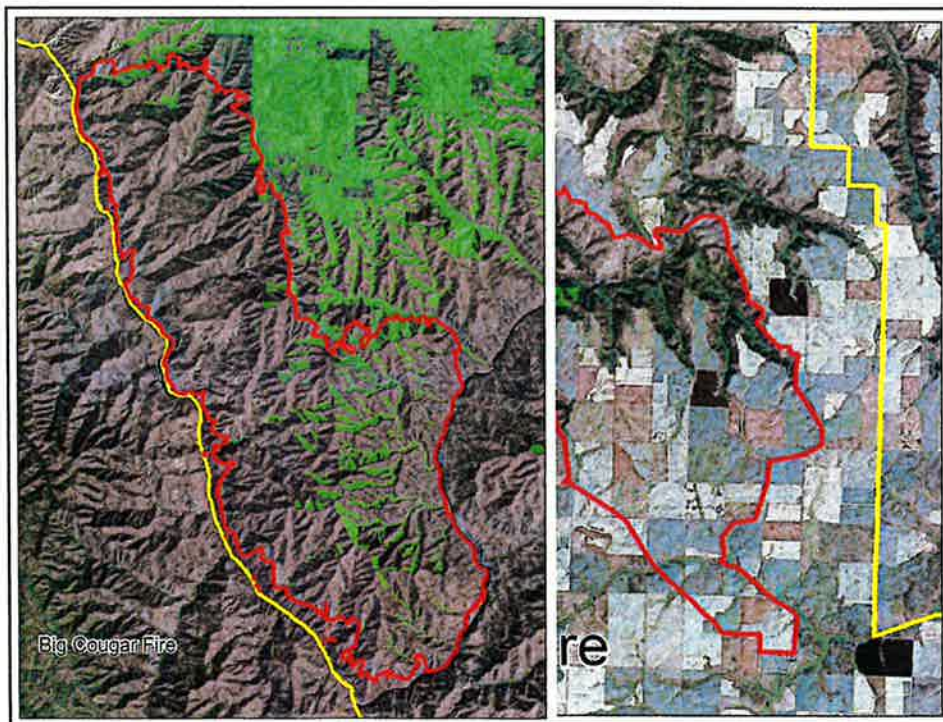
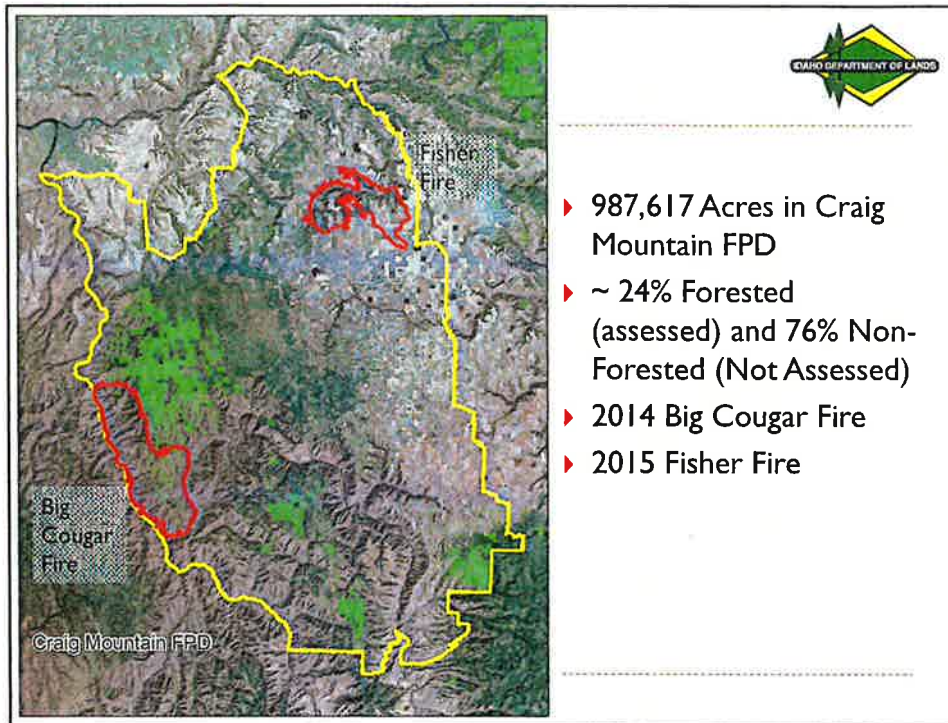


Assessed vs Non-Assessed Acres



- ▶ GF provides 30% of Preparedness Funding while 50% of lands within IDL's protection are non-assessed
- ▶ Public benefits (recreation, clean air & water, jobs, habitat, etc.) to protect forested & non-forested





Suppression – Who Pays?



- ▶ Deficiency Warrants – General Fund
- ▶ Natural Disaster (Flood, Hurricane, Tornadoes, etc.)
- ▶ Example – Homeowner Structure Protection
- ▶ Endowment Distributions
- ▶ IC 38-111



Deficiency Fund Account



| | |
|-----------------|--|
| - \$11MM | Actual Account (Deficit) Balance on 6/30/15 |
| <u>+\$27MM</u> | Actual General Fund Paid to Account 7/1/15 |
| <u>+\$16MM</u> | Actual Account (Positive) Balance at start of FY16 |
| | |
| - \$25MM | Actual Bills Paid between 7/1/15 – 12/07/15 (for 2014 & 2015) |
| <u>-\$ 9MM</u> | Actual Account (Negative) Balance at 12/07/15 |
| | |
| - \$16MM | 2014 Season Approx NET Fire Debt still owed – Not yet paid |
| <u>-\$37MM</u> | 2015 Season Approx NET Fire Debt still owed – Not yet paid |
| <u>-\$62MM</u> | Projected Net (Deficit) Balance |
| | |
| <u>+\$50MM</u> | FY17 Governor's Recommendation – GF to Deficiency Fund |
| <u>-\$12MM*</u> | Projected Net (Deficit) Balance - After FY17 Appropriation and after all current outstanding obligations are paid. |

*Any costs incurred during the 2016 Fire Season will be in addition to this \$12MM.





Fire Billing Review/Audit Levels

- ▶ IDL Project Fires with T1-3 IMT's
 - ▶ IMT Finance Section Audit
 - ▶ IDL Local District
 - ▶ IDL Fire Bureau
 - ▶ Fiscal
- ▶ Small Fires (T4-5)
 - ▶ IDL Local District
 - ▶ IDL Fire Bureau
 - ▶ Fiscal
- ▶ Other Audits
 - ▶ IDL Fire Bureau & Fiscal
 - ▶ LSO Audits (every 2-3 years)



Fire Funding – Other States

- ▶ Montana
 - ▶ Preparedness – Assessments, GF & Federal
 - ▶ Suppression – Wildfire Suppression Fund (\$100 million cap)
- ▶ Oregon
 - ▶ Preparedness – Assessments, GF & Federal
 - ▶ Suppression – Assessments/GF, Fire Insurance, GF
- ▶ Washington
 - ▶ Preparedness – Assessments, GF & Federal
 - ▶ Suppression – GF
- ▶ White Paper – more details



AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Lincoln Auditorium Room WW02
Wednesday, February 17, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---|---|--|
| Minutes | Approval of Minutes February 3, 2016 | Senator Bayer |
| Minutes | Approval of Minutes February 8, 2016 | Senator Siddoway |
| Minutes | Approval of Minutes February 10, 2016 | Senator Lacey |
| RS24548 Unanimous Consent to send to State Affairs to print | Provides a process for the IDFG to have an independent entity carry out drawings for tags for controlled hunts. | Senator Brackett |
| Gubernatorial Appointee Hearing | Chris Beck, Hayden Lake, Idaho, was reappointed to the Oil and Gas Commission to serve a term commencing July 10, 2015 and expiring July 1, 2019. | |
| Discussion | Wildlife Depredation of Farm Crops | Wyatt Prescott, President, Idaho Cattlemen's Assoc., Russ Hendricks, Idaho Farm Bureau |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 17, 2016

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium Room WW02

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Stennett and Lacey

ABSENT/ EXCUSED: Senator Hagedorn

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of February 3, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Siddoway** moved to approve the Minutes of February 8, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Lacey** moved to approve the Minutes of February 10, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 24548 **Senator Siddoway** said he had been asked to talk about **RS 24548**, as Senator Brackett (the author of the RS) had a speaking commitment out of town. **Senator Siddoway** said **RS 24548** provides a process for the Idaho Department of Fish and Game to have an independent entity carry out drawings for tags for controlled hunts. The department shall contract with a private entity to conduct the drawings, which must be conducted using a computer program that awards permits based on a random order of selection. The estimated cost is approximately \$102,500 depending on the number of applications and the level and type of service desired. Fourteen Senators and 16 Representatives are co-sponsors of this legislation.

MOTION: **Senator Heider** asked for unanimous consent to send **RS 24548** to the State Affairs Committee for printing, and have it returned to this Committee. There was no opposition to the request.

GUBERNATORIAL APPOINTEE HEARING: Chris Charles Beck, Mayor, Hayden Lake, Idaho, was reappointed to the Oil and Gas Commission to serve a term commencing July 10, 2015, and expiring July 1, 2019. Mayor Beck is a registered professional engineer and obtained his education at:

- Meridian High School, 1978, Meridian, Idaho
- University of Idaho, B.S. Geological Engineering, 1983
- University of Idaho, M.S. Geological Engineering, 1988

Mayor Beck was named the "Outstanding Young Engineer" in 1993 by the North Idaho Chapter of the Society of Professional Engineers and was awarded a "Certificate of Merit" in 1983 by the Nez Perce National Forest, U.S. Department of Agriculture. He has also had one publication: *Geological Engineering Maps of the Boise Foothills, Ada County, Idaho*.

Civic involvement includes the following:

- Mayor, Hayden Lake, 2012 to present
- Councilman, Hayden Lake, 2010-2012
- Vice Chairman, Hayden Urban Renewal Agency, 2005-2011
- Councilman and Council President, Hayden, 1999 and 2003
- Vice Chairman, State Trustee, Panhandle Health District, Board of Health, 1996-2011
- Rathdrum Prairie Aquifer Protection Committee, 2009-2011
- President, Leadership Coeur d'Alene, 1995; Board of Directors, 1994-1996
- Coeur d'Alene Area Chamber of Commerce, Board of Directors, 1996-1998
- Kootenai County Site Disturbance Committee, 1996-1998
- Coeur d'Alene Public Golf Course, Board of Directors, 1996-1997
- Coeur d'Alene Sunrise Rotary Club, Charter Member, 1995

Mayor Beck said the two years that he has been on the Oil and Gas Commission have been a steep learning curve. **Mayor Beck** said one of the challenges facing the Commission is the development of a well-structured method of handling applications.

Chairman Bair thanked Mayor Beck for appearing before the Committee and said they would consider his appointment at the next meeting. **Chairman Bair** then welcomed Mr. Prescott.

PRESENTATION: Wyatt Prescott, Executive Vice President, Idaho Cattle Association, presented an overview of the wildlife depredation of farm crops that the ranchers and cattlemen are dealing with. The three main issues are: 1.) consolidation of ungulate herds; 2.) valuation of feed; and 3.) the compensation program.

Russ Hendricks, representing the Idaho Farm Bureau, provided a four-minute video of some problems encountered with wildlife (see attachment 1).

Ed Schriever, Deputy Director, Idaho Department of Fish and Game (IDFG), provided information regarding big game depredation prevention and compensation. The existing program was developed by recommendations from the IDFG Advisory Committee in 1989, and legislation was passed in 1990. The Department responds to approximately 700 depredation or nuisance complaints annually, most of which are addressed without need for compensation. With a higher snow pack this winter, it has caused big game to be concentrated at lower elevations.

As of February 12, 2016, IDFG staff responded to 236 depredation complaints: 189 involving elk; 25 involving turkeys; and 22 involving deer. Regional supervisors have issued 76 kill permits and authorized 22 depredation hunts. Fencing materials, hazing assistance and other depredation techniques have been provided to 215 private landowners. Emergency winter feeding sites have been established in 5 locations for 650 elk to reduce damage to private property.

Funding for prevention amounts to \$900,000; a fund of \$255,000 is used for compensation. During the past ten years, \$2.45 million has been paid on 304 claims. Crop losses account for 91 percent of payments, livestock payments account for 6 percent and rangeland forage 3 percent.

Three challenges facing the IDFG are:

- dedicated funding for depredation prevention has not kept up with inflation and only provides 45 percent of the purchasing power originally available in 1990
- changes in private land ownership, uses and access
- greater use of private lands by deer and elk

Following are testimonies of wildlife depredation of farm crops:

TESTIMONY:

Tom Mosman, Nezperce, Idaho, provided oral testimony. A copy of his talk is attached (see attachment 2).

Helo Hancock, Idaho Falls, Idaho, provided oral testimony and also represented the Larson Farms (see attachment 3).

Mike Frei, Managing Director, Harvest West Investments (see attachment 4).

Mark Frei, Idaho County Commissioner, Grangeville, Idaho, (see attachment 5).

Don Alt, Naples, Idaho, (see attachment 6).

Jim and Deb Dahlberg, Bonners Ferry, Idaho, (see attachment 7).

Tom and Sandy Daniel, Bonners Ferry, Idaho, (see attachment 8).

Keith Daman, Damon Brothers Farm, DeSmet, Idaho, (see attachment 9).

J.P. Schlader, Nezperce, Idaho, (see attachment 10).

Cole Smith and Drue Smith, (see attachment 11).

Kurt Bird, Leadore, Idaho, (see attachment 12).

Bryce and Jodi Campbell, Juniper, Idaho, (see attachment 13).

Cleve G. Smith, Malta, Idaho, (see attachment 14).

Robert A. Piva, Challis, Idaho, (see attachment 15).

Adam Deckott, Zack Hasenoehrl, James Whittaker and Sid Cullen all provided oral testimony regarding wildlife depredation to their farm crops.

Chairman Bair thanked the audience for their attendance and their testimonies.

ADJOURNED:

Chairman Bair adjourned the meeting at 3:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

Attachment 1
2/17/16

Wildlife Depredation - Lemhi County 2015-2016

Elk

Deer

| | Elk | | | | Deer | | | | Fencing |
|----------------|-----------|--------|-------|---------------|-----------|--------|-------|--------------|--------------|
| | Headcount | Months | AUM's | \$ | Headcount | Months | AUM's | \$ | |
| Mike Kossler | 450 | 6 | 1,800 | \$ 27,001.35 | 150 | 12 | 450 | \$ 6,750.00 | |
| Dan French | 50 | 0.5 | 17 | \$ 250.01 | | | | | \$ 4,328.00 |
| Mike England | 300 | 12 | 2,400 | \$ 36,001.80 | | | | | |
| Clyde Nelson | | | | | 100 | 12 | 300 | \$ 4,500.00 | |
| Brit McFarland | 200 | 4 | 533 | \$ 8,000.40 | 75 | 12 | 225 | \$ 3,375.00 | |
| Phil Moulton | 80 | 5 | 267 | \$ 4,000.20 | 50 | 12 | 150 | \$ 2,250.00 | |
| Joe bailey | 250 | 1 | 167 | \$ 2,500.13 | | | | | |
| Roy Hoffman | 300 | 3 | 600 | \$ 9,000.45 | | | | | |
| Tex Kauer | 300 | 4 | 800 | \$ 12,000.60 | | | | | |
| Lamar Cochrell | 200 | 3 | 400 | \$ 6,000.30 | | | | | |
| Beyeler Ranch | 250 | 2 | 333 | \$ 5,000.25 | | | | | |
| Seth McFarland | 125 | 4 | 333 | \$ 5,000.25 | | | | | |
| Vin Strupp | 50 | 1 | 33 | \$ 500.03 | | | | | |
| Whittakers | 90 | 4 | 240 | \$ 3,600.18 | 30 | 12 | 90 | \$ 1,350.00 | \$ 26,000.00 |
| Ball Ranch | | | | | 75 | 12 | 225 | \$ 3,375.00 | |
| Total | | | 7,924 | \$ 118,855.94 | | | 1,440 | \$ 21,600.00 | \$ 30,328.00 |

\$/AUM \$ 15.00
Elk 0.67 AUM
Deer 0.25 AUM

2/17/16

From: J.P. Schlader [mailto:jpslady@q.com]
Sent: Wednesday, February 17, 2016 1:00 AM
To: Russ Hendricks
Subject: Depredation

Russ, it is my understanding you want to hear from farmers regarding elk problems concerning tearing up grain and legume producing acres in the state of Idaho. For years now I have been having problems with elk and mule deer populations on my farm north of Nezperce, Idaho. Herds of both breeds can do significant damage to my fields on any given year, mostly in fields that border what we call Little Canyon. I farm a two mile stretch of land that border the canyon, and these herds can destroy a significant amount of acres, especially when I have them in a legume production year.

I don't know if you will hear from any of Farm Bureau members from Clearwater/Lewis Counties, but I will stand with them in strongly suggesting depredation hunts being allowed along the Little Canyon drainage North of Nezperce.

--

J. P. Schlader
1979 Russell Ridge Rd.
Nezperce, ID. 83543

2/17/16

-----Original Message-----

From: Cole Smith [mailto:cl.smith06@yahoo.com]
Sent: Wednesday, February 17, 2016 9:11 AM
To: Senator Steve Bair <sbair@senate.idaho.gov>
Subject: Elk depredation

Dear Senator Bair,

After we spoke last week at the FB meetings in Boise I have been thinking what to include in this email. I want you to know that the Dept of Fish and Game have done a lot down here to help us. We feel that they could do more by allowing us to sell our landowners tag to help compensate for our losses. Also maybe some relaxing on the rules for the amount of acres per tag on a case by case bases. I know that might be difficult but I think it could be done. We only qualify for one tag but when we have 300-400 elk in our feeders every night, we feel that more then one tag is appropriate. As Jason Beck for the F&G can attest to we have always been willing to let the public hunt on our property to help control the problem. Here is a list of some of the losses we have had.

- 1-1 1/2 ton dairy hay per day during winter months
- 1/2-1 hour per day repairing fence to keep cows in destroyed be elk
- \$3000 per year in fencing supplies to keep up with repairs + time lost due to the elk

This has been an issue for the last 10 years but really bad the last 3. In the summers we don't have as bad of an issue but they still do go through fences all the time. We've talked over the point that we would like to be heard is that we would like the ability to get more if possible and be able to sell these tags to compensate for the loss. If we were able to do that we feel that could be willing to just deal with this ourselves and not have to call the F&G to help. We would still be willing to allow the public to hunt on our place and always will cause we know that we have to work with everyone.

If you and the F&G would like I have more ideas on plans on how to accomplish this. Feel free to call or have them call. 208-847-5207.

Thanks,

Cole Smith & Drue Smith

Sent from my iPad

2/17/16

To Whom It May Concern,

I would like to voice my opinion concerning the size of the elk herds in the Leadore area and the damage they do to crops and fences on a yearly basis. Beginning in August, we have elk coming into our fields every year. This past fall we counted thirty three bulls and spikes in one herd, along with many cow elk coming in to our irrigated fields all at one time. It is not uncommon to see multiple groups of 50 to 75 elk daily. They run through fences, damage crops by bedding down, and eat free choice from our crops.

Last fall the ranges had more grass left on them than normal, but still the elk came down in larger than average numbers. I can only attribute this to the herds becoming too large or predators (wolves) forcing them out of the mountains.

In years past, we were in the access yes program, but due to the changes in the program made by Fish and Game we felt it was a program we could no longer participate in. The landowner no longer had the right to limit the number of hunters on any given day. Also archery and rifle hunting were allowed to run concurrently during the green field hunts, posing a hazard to hunters.

I also feel very strongly that we as landowners should be able to sell or use our landowner permits as we see fit. Landowners have the expense of feeding the elk and standing the costs of repairs for damage caused by wildlife. We should be able to sell landowner permits to help offset some of these expenses.

Sincerely,



Kurt Bird

208-768-2425

Bryce & Jodi Campbell // bjc@atcnet.net
Juniper, Idaho
Attachment 13
2/17/16
February 12, 2016

Dear Big Game Policy Makers of Idaho,

I understand that there is currently discussion going on as to how the elk are becoming a significant problem for agricultural producers and what some of the solutions might be. I am sending this letter to inform you of the impact the elk have had and currently have in our operation in and around Juniper, Idaho. Our farm is made up of about 4000 acres of dry farm around Sweetzer Summit, some additional leased land in Juniper, and about 320 acres of irrigated ground on the flat south of Juniper (near the Utah State Line).

I feel that it is important to start with some historical background of the elk in our area in Southern Idaho. My grandfather and great grandfather farmed and ranched in the Clear Creek, Black Pine, and Sublett areas their entire lives. My great grandfather never saw a single elk in the area his entire life, and my grandfather never saw one until around 1998 (he was born in 1919). I saw them show up at this time, and we had not seen any elk before this. With just a few animals in the area in the beginning, their impact was not too substantial. However, that changed as the herd sizes increased. Since about 2009, their impact on our operation has been very substantial. I have heard many ideas as to how exactly the elk came to this area. I know the fish and game was expressing an interest in bringing them here in the late 1980s.

We currently have about 40 elk that frequent our dry farm in the summer. About the 1st of September, they move and spend more time in the irrigated hay on the flat. When they head to the flat, the herd meets with additional elk, become a herd of well over 100 animals. This field is in quite open country so the elk spend their days in cedar tree patches within a few miles and trail in and out of the field each night. Depredation hunts are challenging because the country is open so hunters struggle to sneak up on them, and they are typically only in the field at night. Typical damage to the dry farm include trailing through the winter wheat as it is ripening, trampling it and they graze the seed heads off our safflower as the seeds are forming. On the irrigated crops, our 3rd crop alfalfa has substantial damage from grazing and trampling. When it snows, they aggressively dig to the winter wheat to eat it and root around in it, which stunts the crop going into the next year. We also have had increased costs to deal with the additional weeds that they spread through their droppings, particularly field bindweed. A couple of other additional costs are the cost of scaring elk out at night and other fence repair costs associated with elk caused damage.

The habitat for elk on public land in our area is marginal, and so they heavily rely on farmers crops for food and ranchers water supplies for water. Just to give some typical numbers as to what this is now costing our operation on an annual basis:

80 acres Dry farm wheat affected; went from 40 to 35 bu/acre (5 bu/acreX80 acresX\$6.00/bu=\$2,400)

40 acres Dry farm safflower affected; went from #800 to #400 (400#/acreX40 acresX\$.20/#=\$3,200)

200 acres Irrigated 3rd crop Alfalfa affected; went from 1.6 to 1.4 ton/acre (.2ton/acreX200 acresX\$175/ton=\$7,000)

80 acres Irrigated winter wheat PVP certified seed affected; went from 100 bu/acre to 90 bu/acre (10 bu/acreX80 acresXcertified pvp seed prem. price of \$10.00/bu=\$8,000)

2/17/16
February 10, 2015

Dear Senator Bair,

My name is Cleve G. Smith and I own an organic wheat farm in southern Idaho. Myself and other farmers in our area have been meeting with the Fish and Game for the past 7 years asking them to cure the problem that the elk are causing or to pay for the damages.

I have farmed 2500 acres in Sublett for 50 years and didn't have elk problems until about 7 years ago. In 2009 we saw 2 elk, then 16, then 40, then 70, then 120, and then 140. They come in on our fall wheat destroying fences and bringing in morning glory seed (a noxious weed) to our organic fields.

Forty years ago we had the right to protect our property, but it seems that has been given to the Fish and Game. They need to either let us take care of the problem, or be responsible for the damages the elk cause.

My loss over the past 7 years is about \$50,915. The Fish and Game provided us with some wire for a credit of about \$840 which leaves a loss of \$50,075. As you can see, the elk have been very costly for us.

I hope this helps with the evaluation ^{of} ~~with~~ the elk problem.

Sincerely,

Cleve G. Smith
3619 E. 1595 S.
Malta, Idaho 83342
208-312-2251

2/17/16

elk depredation

Robert Piva <piva2@custertel.net>
To fjwhitt@yahoo.com

Today at 8:48 PM

James,

Following is the information you requested:

We have had approximately 200 elk on our Challis ranch private property since early Oct. consuming valuable and important fall pasture. Whenever we tried to haze the elk off our private property they would immediately return to avoid the waiting riverbottom hunters on our eastern borders and hunters on our western borders waiting for the elk to leave our private property. Our ranch lies in the center of round valley with subdivisions, homes, livestock, employees and grandkids all in gunshot range. It is too dangerous to allow hunting on our private property. Starting in February, we have had at least 100 head of elk breaking into a large stackyard of round baled first and second crop hay. They started breaking into our stack yard after being hazed and chased by Idaho Fish and Game employees to remove elk from our adjoining neighbor to the northwest. I called our local fish and game commissioner two months ago, before the elk started breaking into our hay stacks. He relayed my call to the Idaho Fish and Game, but it was a considerable time before I got a return call. We are in the middle of calving with no time to construct elk fences even if we had the materials. We are trying to move the hay from the damaged stackyard as fast as we can but with so many damaged bales it is very difficult. We chase the elk off daily but they just come back each night. We estimate that the elk have consumed or destroyed approximately 100 ton of round baled hay. The huge herds of elk and associated disease risks to our cattle and the devastating damage to our crops and stored hay are becoming commonplace. They do not belong on our private property. The Idaho Department of Fish and Game appears to be totally unconcerned. Attempted bandaids fixes to major property damage is in my opinion negligence if not criminal on the part of the IDF&G. If I allowed my livestock to continuously destroy fences, crops and stored hay of my neighbors I would be faced with immediate lawsuits. Is the Idaho Department of Fish and Game immune to accepting responsibility for their management mandate? They will simply blame the elk in the valley on a heavy snow year. These problems started long before snowfall and long before this year. Never in my lifetime have I seen wildlife damage like I have seen the last couple of years. I believe the only way to prompt the IDF&G into action is to make the cost of doing nothing more than the cost of solving the problem.

Robert A. Piva
3rd generation rancher
Challis, Idaho

Attachment 2
2/17/16



Feb. 17, 2016

RE: Depredation

My name is Tom Mosman. My family and I ranch and farm on the Clearwater breaks near Nezperce. We have been experiencing depredation for a minimum of 15 years. We have worked with the Fish and Game Department over the years. It's been pretty much a hit and miss deal.

There is a philosophical difference in how the Fish and Game perceive depredation compared to that of the landowners. It was explained to me by the Fish and Game that this is a situation of the *King's Deer* where the English kings in history owned land and would not allow the peasants to hunt and kill deer. Penalty would often be death. The sportsmen were likened to the peasants and landowners kings. This was played to make the landowner feel obliged to provide hunting regardless of the cost to provide the habitat and the loss of crops due to the wildlife depredation. All the cost was on the landowner, not the "sportsman" all the while buying tags that benefit the Fish and Game along with the money legislated to help support depredation efforts.

I don't feel like a king, nor wish to be. I pay the taxes on the land and take a loss on crops due to depredation. I also am obligated to stop my work, often during harvest season, to show the "sportsman" where my boundaries are and where the animals have been grazing. The Fish and Game are not around except to call me to fulfill this obligation. If they come, it's with a rifle in their hand.

Having the designated funds from the state in the care of Fish and Game is like having the fox guard the hen house. If depredation funds are not used to compensate the landowner, Fish and Game are allowed to keep the funds with no account to the state. My costs in time and money are not compensated. The funds not used for depredation should be returned to the state's general fund. If a program to support landowners for depredation is provided by the state, more responsibility to distribute funds need to be a priority.

2/17/16

February 17, 2016

Senator Steve Bair, Chairman
Senate Resources and Environment Committee
Idaho Legislature
Boise, ID 83702

RE: Wildlife Depredation of Farm Crops

Dear Chairman Bair and Members of the Committee:

Chad Larsen Farms along with Richard and Peggy Larsen Farms own 12,000 acres of land in Jefferson and Clark counties of Southeast Idaho. Grain, Wheat, Hay, Potatoes and Barley are all crops that are grown. We currently have 65% of our acreage in hay. Some organic. We do our best to winter our hay that we are unable to move by tarping it. This protects it's from the elements of weather but doesn't seem to keep the animals out. It is very costly being it is \$10 a ton. It costs us \$4500 on average to tarp one stack in its entirety. With commodity prices lower we cannot afford to tarp entire stacks only the top and that's when animals can come in and cause great damage.

We try to get one ton straw bales and stack them two high around the stack to keep the animals out. This costs us around \$600. With about 70 stacks of hay we aren't always able to provide enough straw to do this method. When the elk come in to feed on our hay stacks it is a big nuisance during and a costly one. Since 2004 we have lost between \$60,000-70,000. We had years where the hay prices were up making our loss greater than in other years. These losses are due to the elk breaking down the bales then causing the stack to fall and feeding on it.

We have not been compensated for any of these losses. When we have contacted the Idaho Falls Fish and Game office, they've sent someone out to assess the situation, but nothing was ever done about these damages over the years.

We were given a depredation tag for a cow. The frustration in that gesture was we weren't having cow elk coming in. They were bulls. Provided are pictures showing the bulls that have been feeding on our hay for years. For over 10 years we have had herds of bulls coming in and attacking our hay stacks. Sometimes they tear through the tarps with their horns. They tear down the straw with their horns and they break into the hay that way.

The poppers provided by Fish and Game seem to only work for a week or two then it seems the animals are used to the sound and aren't bothered by it and still come in.

It is frustrating to see animals starve. It breaks our hearts, but unfortunately we aren't in a position to feed them. If we were compensated for the losses we would feel differently, if we were given a depredation tag that would be on the sex of the specie we were having a problem with, or if Fish and Game could better assist us in keeping them out with costs. We ask that something be done to help these animals out and to help us out as well.

Sincerely,

Chad Larsen, Owner/Operator
Chad Larsen Farms

Attachment 4
2/17/16
From: Mike Frei [<mailto:mike@harvestwest.com>]
Sent: Tuesday, February 16, 2016 1:06 PM
To: Bob Smathers <bsmathers@idahofb.org>
Subject: Re: FW: Depredation Hearing

Bob,

I don't have too much of an elk problem but sure do with whitetail deer. I have a 30 acre hay field to the east of our house and a 15 acre hay field to the Southwest of our house and from early February on to middle of May, we can count anywhere from 50 to 70 deer between the two fields on any evening we want to take the time to count.

Really don't know the impact it is making on our hay crop but know it has to be substantial. Don't know if this information is of any use but thought I would share it with you.

Best regards,

Mike

--

Mike Frei
Managing Director
HarvestWest Investments
mike@harvestwest.com
208-507-1234

2/17/16

February 16, 2016

2016 Idaho Legislature
Boise, Idaho

Dear Legislator,

I thank you for the opportunity to testify by letter in favor of a bill addressing the injustices of the Idaho Game Depredation system. I testify both as an individual farmer and rancher and also on behalf of my constituents in Idaho County as I am one of the Idaho County Commissioners.

As an individual farmer and rancher, I would like to tell you that elk and deer have destroyed our crops of fall canola, significantly reducing the yield while at the same time no just compensation was received. There are hay fields that I would love to seed to alfalfa, but I do not even try because I know that the deer will feed on it in such numbers as to kill the crop. It is extremely frustrating for the land owner, who pays taxes, who fertilizes and sprays his fields at his own economic cost, to then create habitat for a group of animals that he has no control over, but which cost him economic loss.

As a County Commissioner, I would like to say that I find it unjust that the State owns the game on the land, takes revenue from the game, controls the game population and yet to a very significant degree that same game population is supported by economic inputs of the private land owner. If the State wants to own the game, then it needs to make just compensation to the land owner for economic damages. I do not believe that the existing Depredation system is anywhere near establishing justice in this regard.

Thank you for your consideration of my testimony.

Sincerely,

Mark Frei
Idaho County Commissioner
139 Case Road
Grangeville, ID 83530
208-507-0171

2/17/16

Subject: Wildlife Depredation Hearing

Hello, My name is Don Alt and I farm with my father, John Alt, on a small 30 cow/calf operation near Bonners Ferry. Our Elk problem consists of a small herd of 15 to 20 animals that stay year round. The number bumps up to 150 to 175 starting the end of November thru January. If the snow fall is deep the Elk problem continues thru February. Over the past 3 years we have lost 12 tons of grass/alfalfa hay to Elk and Deer. Elk coming into our barns and feeding with our cattle started 6 years ago. There was never a count over 15 to 20 head before this and my father has owned this land for more than 50 years. The problem we have does not stop at hay in the barn being destroyed. The continuous feeding by the Elk and Deer drops the yield we get from our hay ground over the year. Also fall pasture is limited and having to start feeding hay earlier than normal has become common place now. This can be taxing during drought years like 2015.

The wolf population has increased the amount of Elk in the lower farming areas in the last 6 years. The numbers of Elk in the region has not lessened but where they find sanctuary during the winter months from the wolf population has changed. Instead of the Elk staying near the mountain ranges and the benches near the mountains, they now venture into the farm land and hay barns near people where they feel protected during the winter.

I do think the 50 tag controlled hunt #2046 that was started this year on private land is a good option. A neighbor and I both drew this tag and harvested Elk on our property. There were also 3 depredation elk taken on our property. One suggestion would be to increase the controlled hunt to 75 tags, cows only, private property and October to December 31st. Hunt #2046 was from August to December 31st.

I do hope my comments have help shed light on a problem that needs to be continuously addressed and adjusted by Fish and Game.

Don Alt

2245 Kootenai Trail Road
Naples Id 83847
208-610-0819

2/17/16

To Whom It May Concern,

Jim & Deb Dahlberg, Bonners Ferry, ID partook of the elk depredation hunt in Boundary County. We own a hay farm 5 miles from Bonners Ferry. On 80 acres across the road from our home we hosted 200+ elk regularly. They work the alfalfa over-eating whatever they please. IF my cows were to do this to a neighbor—we would be responsible for the cost of the crop. The elk also dig in to 'soft' fields leaving their tracks on fresh ground that was once a "SMOOTH" hay field. Once again, if our cows were to do this to a neighbor—WE would be held responsible. The elk have also let themselves into the barn. The solution—let's give the farmer some flimsy panels to keep them out....how does THIS work you ask? NOT well.....we have ran a hot wire in conjunction as well as purchased 'gates' to keep the critters from 'feasting'. They have also bent, destroyed OUR heavy panels trying to get into OUR barns. Fences are yet another issue---when OUR cows get out because of elk recurrence—guess what---once again WE are paying for damages OUR critters have incurred. With 'this' being said---WHO is compensating 'us' for our loss? We farm 150 acres which includes 1st cutting alfalfa, 2nd cutting alfalfa, timothy as well as an oat crop. It would easily be said that we incurred a 25% loss on a whole.

So,,,,,,we join in and 'allow' a depredation hunt to control the DEER and it was followed re the ELK. WE are 'not' hunters so we gain 'little' from our efforts. As the secretary of the farm, I set the hunt up w the F&G and stayed in contact with 'Lester' who was definitely a positive person re our needs. I send names of hunters that would like to hunt here.....after he sends them depredation info.....I once again take them to the fields to show them the hunting boundaries. The hunters phone.....Are the elk out,,,,,do you see the elk,,,,,what time shall I hunt,,,,,would you bring the tractor to help,,,,,do you mind if I wash up at your place and and and!! It took A LOT of time and effort on our part once again. So let's look at the results of the hunt. The hunter would show up and within 15 min-normally shoot an elk....'if' the hunter felt like hunting that day! Some would procrastinate leaving the herd standing and no tags issued until a kill was made. After the kill,,,,,,it only took a brief time for the herd to return. As the hunt went on the time frame DID stretch out further-keeping the herd stirred up. Lester McDonald could give you the yield "IF" the hunters bothered to leave that info as they were requested. It's not much fun to turn people....whether you know them or not loose on your property with guns as once a year hunting revs the adrenaline.

PRESENTLY the elk haven't left.....they have moved 1/2 mile south of us—into Pam Abbot Brooker's horse farm. They are enjoying her round bales of hay that are surrounded by the 'wonderful' panels given to her. They have also moved into the adjoining property of Darrel Thiel which is leased by Justin Pluid. They have nosed their way into the barn—enjoying the farmers effort of Justin. Equipt has been moved to slow their efforts and now the farmer has used 'HIS' panels to curtail the effort of the elk. A 'loaded' hay trailer was left in his yard re having pickup issues and guess who helped themselves to the bales?? The elk enjoyed the farmers efforts once again!

I believe it is the responsibility of the Fish & Game to 'control' their wildlife as it is the Farmer's to control theirs. WHY are 'we' having to put so much energy, effort and finances into YOUR responsibility? I would be happy to supply a bill for the damage as well as for the hours we have incurred doing the Fish & Game's job.

Sincerely,

Jim & Deb Dahlberg
1498 Black Mountain Rd
Bonners Ferry, ID 83805

208 267-2388
deb@meadowcrk.com

2/17/16

Tom & Sandy Daniel
dba Daniel Farms
1142 Deer Park Road
Bonners Ferry, ID 83805
(208) 267-5274 (208) 290-1151

Elk Depredation

| | LOSS | LOSS | | | |
|-------------|---------------|------------------|----------|---|-------------------|
| Alfalfa Hay | 10% | \$36.00 per Acre | 120 Acre | = | \$4,320.00 |
| Wheat | 10 bu. | \$50.00 per Acre | 275 Acre | = | \$13,750.00 |
| Pea,s | 100 lb per A. | \$25.00 per Acre | 50 Acre | = | \$1,250.00 |
| Barley | .5 tons | \$75.00 per Acre | 50 Acre | = | <u>\$1,650.00</u> |
| | | | | | \$20,970.00 |

| | | | |
|------|------------------|------------|-------------|
| Loss | Per Acre Average | Total Acre | |
| | \$46.00 | 495 Acre | \$22,770.00 |

This is a statement of our loss's we have on average on our farm.
We live 15 miles north of Bonners Ferry on Hwy 95.
It's what they call the Bench Land.
This loss comes from field
damage all year around.

Thank you:
Tom Daniel

2-16-2016

2/17/16

From: Keith Daman [<mailto:damanfarm@cpcinternet.com>]
Sent: Tuesday, February 16, 2016 2:02 PM
To: Russ Hendricks
Cc: Bob Smathers
Subject: Elk Depredation

Russ,

I just received (from Bob Smathers) notification of the meeting concerning Elk Depredation problems in the state.

I would like to submit to you for inclusion in the meeting my concerns regarding the problem.

We farm approximately 5500 acres in Benewah County. We have seen over the last 10-15 years a dramatic increase in the elk population in our area. With that population increase we have experienced a significant increase in damage to the crops we raise and in particular damage to our export Timothy hay fields. So much so that I have hired a person to patrol our fields at night with a ATV and a spotlight to "discourage" the elk from eating our crops. We have had pretty good success with this effort , however it is expensive. We begin this effort the last week of March and continue through much of May. It can be a challenge finding someone willing to commit to this nightly effort, fortunately I have been able to get a semi-retired neighbor to do this for me.

It is common for us to see 50 to 100 elk in many of our fields each night when we ride through the fields. I would estimate between 600-800 elk (maybe more) pasture our fields on a regular basis. We have seen as many as 400 in a single field on occasion in the spring of the year. The problem is significant , however we have been working with the personal of Panhandle Region Fish Game to deal with the problem and I am very pleased with their concern and response to the problem. It seems that the controlled hunts and depredation tags are the best way to address the problem while providing sportsmen a good hunting experience. As always there are some things that we could do to improve the efforts to control the population and I will say that the regional personal of IDFG are very open to suggestions concerning the matter.

I do believe that it is important for the legislators to understand that it is an increasing problem that needs to be worked on. I ask for continued support for efforts to address the problems of depredation through-out the state.

Keith Daman

Daman Brothers Farm
1828 Sheep Creek Road
DeSmet, ID 83824

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Friday, February 19, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---|---|--|
| Minutes | Approval of Minutes, February 15, 2016 | Vice Chairman Vick |
| Gubernatorial Appointee Consideration | Chris Beck, Hayden Lake, Idaho, was reappointed to the Oil and Gas Commission to serve a term commencing July 10, 2015 and expiring July 1, 2019. | |
| <u>S 1237</u> | Water body priority classification | Barry Burnell, Water Quality Division Administrator, DEQ |
| <u>S 1238</u> | Water quality records | Barry Burnell |
| <u>S 1239</u> | IPDES permit decisions | Barry Burnell |
| <u>S 1339</u> | Oil and gas, wells, permits | Kate Haas, Alta Mesa |
| <u>S 1340</u> | F&G, damage claims from bears/bees | Senator Lee |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, February 19, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Vice Chairman Vick** moved to approve the Minutes of February 15, 2016. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

PAGE RECOGNITION: Liberty Stokes, page for the Committee, was given a letter of recommendation and a gift card to Barnes and Noble Bookstore for her work the past six weeks. After graduation from high school, Liberty plans to attend college at BYU for a year, go on a mission and return to complete college. **Chairman Bair** said he was pleased to have sponsored Liberty and added that she will be missed.

GUBERNATORIAL APPOINTMENT: **Vice Chairman Vick** moved to send the Gubernatorial appointment of Chris Beck to the Oil and Gas Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

S 1237 **Barry Burnell**, Water Quality Division Administrator, Department of Environmental Quality (DEQ), presented **S 1237**. The federal Clean Water Act requires states to identify water bodies that do not meet water quality standards and to develop a water quality improvement plan, called a total maximum daily load (TMDL) for each. TMDLs are then prioritized by taking into account the severity of pollution and uses of the water bodies. Federal law permits states to take other factors, such as department resources or data quality, under consideration as well when setting priorities for TMDL development. Current Idaho Code language does not allow the DEQ to take advantage of this added flexibility. The purpose of this legislation is to make Idaho Code consistent with federal law and ensure the DEQ can fully utilize the flexibility allowed when prioritizing TMDLs.

MOTION: **Senator Heider** moved that **S 1237** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

S 1238 **Mr. Burnell** presented **S 1238**. Under the direction of the Legislature, the DEQ is seeking primacy over the National Pollutant Discharge Elimination System (NPDES) program currently administered by the United States Environmental Protection Agency (EPA). The purpose of this legislation is to amend the Idaho Public Records Law to ensure access to water quality records and the protection of trade secrets associated with the federal Clean Water Act and the new Idaho Pollutant Discharge Elimination System (IPDES) program.

TESTIMONY: **Jonathan Oppenheimer**, representing the Idaho Conservation League, testified in support of **S 1238**.

TESTIMONY: The Idaho Association of Commerce and Industry provided a letter of support for **S 1238**.

MOTION: **Senator Bayer** moved that **S 1238** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.

S 1239 **Mr. Burnell** presented **S 1239**. This proposed legislation is necessary for Idaho to submit a complete application to the EPA requesting authorization to implement a state NPDES program. The application will request authorization for what will be known as the Idaho Pollutant Discharge Elimination System (IPDES) program. This legislation also establishes the process for appealing IPDES permits issued by DEQ and it provides DEQ with the necessary minimum enforcement authorities.

TESTIMONY: **Jonathan Oppenheimer**, representing the Idaho Conservation League, testified in support of **S 1239**.

TESTIMONY: The Idaho Association of Commerce and Industry provided a letter of support for **S 1239**.

MOTION: **Senator Bayer** moved that **S 1239** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.

REORDER OF BILLS: **Senator Lacey** requested that **S 1340** be heard now, rather than following **S 1339** as indicated on the agenda. He reasoned that the hearing for **S 1340** would be very brief as opposed to **S 1339**. **Chairman Bair** granted Senator Lacey's request.

S 1340 **Senator Lee** presented **S 1340**. Currently, the Expendable Big Game Depredation Fund is only authorized to pay for the loss of honey due to the damage by bears and cougars. This legislation would allow for payment for loss of bees and beehives, as well as honey.

MOTION: **Senator Siddoway** moved that **S 1340** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Lee will be the floor sponsor.

S 1339 **Kate Haas**, representing Alta Mesa, presented **S 1339**. **Ms. Haas** stated that this legislation would streamline the administrative permitting process for the oil and gas industry. Currently, an application can take more than 400 days to process. In other states, an application would be considered and processed in 45 to 60 days. This bill seeks to address that problem by clarifying the permitting process for drilling permits and also would bring Idaho's administrative processes into alignment with other producing states by creating a predictable decision-making framework and setting clear timelines.

TESTIMONY: Written testimony in support of **S 1339** was submitted by Michael Simplot, Payette Farms (see attachment 1).

Written testimony in support of **S 1339** was submitted by Leland L. Mink, Worley, Idaho (see attachment 2).

Written testimony in support of **S 1339** was submitted by Suzanne Budge, Executive Director, Idaho Petroleum Council (see attachment 3).

Tom Schultz, Director of Idaho Department of Lands (IDL) and Secretary of Idaho Oil and Gas Conservation Commission, testified next. **Mr. Schultz** stated that the Commission voted unanimously to support **S 1339**.

Mr. Schultz said this bill amends Idaho Code § 47-320, regarding permits to drill or treat a well. The IDL would have up to five business days to notify an applicant if an application is incomplete. Complete applications would then be sent to the Idaho Department of Water Resources (IDWR) for review. They would have ten business days to provide comments. Complete applications would also be posted on the website of IDL for a written comment period of 10 calendar days. The IDL must approve or deny an application within 15 business days of receiving a complete application. **Mr. Schultz** provided the Committee copies of a chart showing: 1.) Integration, Recent Hearing Processes and the Integration, Proposed Timeline; and 2.) State-by-state time frames for applications.

A copy of Mr. Schultz's full testimony is attached (see attachment 4).

Senator Stennett submitted a letter listing some concerns regarding **S 1339** as she was unable to be in attendance the first half of the meeting due to a speaking engagement (see attachment 5).

Senator Hagedorn asked Mr. Schultz if he, as a homeowner, would be comfortable if gas or oil would be found beneath his property, assuming he owned the mineral rights. Would these timelines would be adequate for him to have discussions as to how it would affect his township? **Mr. Schultz** replied that given his understanding of the process, he would seek outside counsel to represent him. Mr. Schultz suggested that individuals in this situation seek counsel. It would be difficult for someone not represented by counsel to participate. **Senator Hagedorn** then asked how would he know how much he should invest in legal counsel. **Mr. Schultz** said it is a personal decision and it is prudent to bring in advice and obtain representation.

TESTIMONY:

John Ponath, Middleton, Idaho, testified in opposition to **S 1339** for the four following reasons: 1.) It removes county planning and zoning authority and grants all authority to the IDL and the Oil and Gas Commission; 2.) It takes their property right to control activities on their property by creating the "deemed lease;" 3.) It limits his right to discovery by making the names of ownership part of the trade secrets and prevents him from getting information to defend his rights of property; and 4.) It creates an emergency act that goes into effect immediately after signing.

Nick Warden stated that he had been retained by a group of people (they relinquished their time) to represent them in objecting to this legislation.

Joli Eromenok said she is opposed to **S 1339** as she fears that she will lose her home.

Stephen Birk said he has five acres, does not own the mineral rights, but is opposed to the bill.

Janet Herrmann objects to **S 1339** because it affects mortgages, will poison the air and water, and does not protect the people.

Due to exceeding the time limit for the Committee by one hour, **Chairman Bair** said no more testimony would be taken and a motion would be in order.

MOTION:

Senator Siddoway moved that **S 1339** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** asked to be recorded as voting nay. Senator Siddoway will be the floor sponsor.

ADJOURNED: **Chairman Bair** adjourned the meeting at 4:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

Attachment 1
2/19/16

February 17, 2016

The Honorable Steve Bair
Chairman – Natural Resources Committee
Idaho State Capitol
Boise, ID 83720

RE: Senate Bill 1339 – Oil & Gas Process Improvements

Dear Senator Bair and Committee:

I wish to provide support for Senate Bill 1339. The bill makes significant improvements to the state process such that, as a land owner, I can understand the process that would be required unlike now. More importantly, as a landowner with several wells already on my property, it gives the industry the necessary flexibility to do its work in a fashion that respects my farming and ranching operations.

The farming and ranching that I do in Payette County is in the same area production was first established. I have a good relationship with Alta Mesa. They work to cause as little impact to my farming and ranch as they can. As I understand the current process, it takes the industry about a year to get through the hearing process with the Oil and Gas Commission. The proposed bill would allow the same hearing to occur in just over 100 days. From my perspective, that allows me more control of when the industry does its work. When I have cattle grazing the ranch in the early spring, I ask industry to avoid working in that area. During the irrigating season, industry has to avoid the irrigated sections. Industry cannot plan more than a year in advance to avoid my concerns under the current process. The proposed bill would let industry meet my needs as a landowner, farmer and rancher.

Again, I would ask that you pass the bill and improve the process for all the stakeholders, including landowners, farmers and ranchers.

Sincerely,



Michael Simplot
Payette Farms

Attachment 2
2/19/16

The Honorable Steve Bair
Chairman - Natural Resources Committee
Idaho State Capitol
Boise, ID 83720

7 February 2016

I wish to provide support for the Act Relating to the Regulation of Oil and Gas Extraction and Production; amending Sections 47-317, 47-318, 47-320 and 47-324, Idaho Code, to Provide Legislative Intent Regarding the Regulation of Oil and Gas Exploration and Production.

The proposed amendments provide a much clearer definition of the process involved in oil and gas exploration and production in Idaho. The act describes a workable process which will assist both developers of oil and gas in Idaho as well as better describe the regulatory authority and process required by the State of Idaho. The concept of placing more authority with the Idaho Department of Lands but leaving the oversight responsibility with the Oil and Gas Conservation Commission is a needed improvement. This gives that obligation to the agency (Idaho Department of Lands) which has the staff and capability to accept the accountability of the regulatory process that the act outlines. It provides substantial oversight by the Oil and Gas Conservation Commission to maintain its responsibility but lacks the staff or financing to deal with day to day activities necessary to process the rules and regulations in a judicious manner.

To encourage the timely development of the oil and gas resource in the State of Idaho and protect the interest and concerns of Idaho, this workable set of guidelines is needed. The proposed amendments described in the act seem to address issues raised in the original act. Both the oil and gas industry and the Idaho State agencies responsible for administration of rules and regulations support the recommended amendments to make the process more transparent and better define the duties of all parties involved.

Respectfully Submitted,

Leland L. Mink

Leland L Mink, PhD; Idaho Registered Geologist 397
Mink Geo Hydro Inc
PO Box 447
Worley, ID 83876



*Attachment 3
2/19/16*

February 18, 2016

Chairman Bair & Members of the Senate Resource Committee
Idaho State Capitol
P.O. Box 83720
Boise, ID 83720-0081

Dear Senators –

The Idaho Petroleum Council (IPC) supports S1339 regarding oil and gas issues and asks you to support the bill when it comes before your committee on Friday, February 19. The IPC Executive Committee has reviewed the legislation and believes these changes will improve the administrative process as managed by the Idaho Department of Lands Oil and Gas Program, under the authority of the Idaho Oil and Gas Conservation Commission.

The Idaho Petroleum Council represents a broad spectrum of interests in the oil and gas industry including exploration and development, infrastructure, power generation and landowners. IPC has played an active role in the development of the regulatory framework governing the industry, as our primary mission, since IPC was founded in 2011.

We ask for your support of S1339 as part of the continuing effort to create an environment in Idaho that is aligned with other oil and gas states and creates the proper incentives to encourage growth of this vital industry. The state of Idaho and its citizens benefit from adding the energy industry to Idaho's resource-based economy.

We appreciate your support of Idaho's energy industry,

Thank you,

A handwritten signature in blue ink, appearing to read "Suzanne Budge".
Suzanne Budge
Executive Director

Attachment 4
2/19/16

Testimony regarding S1339

Oil and Gas

Tom Schultz, Director, Idaho Department of Lands

Thank you Mr. Chairman, members of the committee. My name is Tom Schultz; I am the Director for the Idaho Department of Lands and Secretary of the Idaho Oil and Gas Conservation Commission. I come before you today to provide testimony regarding Senate Bill 1339.

The Commission met on Thursday, February 18, 2016, and voted unanimously to support this bill.

Sections 1, 2, 4, 5, and 6 of the bill gives the Department the power to exercise, under the general control and supervision of the commission, all of the rights, powers and duties vested by law in the Commission, except those provided in Idaho Code §§ 47-324 and 47-325(c).

Section 3 of the bill amends Idaho Code § 47-320 regarding permits to drill or treat a well. The Department would have up to five (5) business days to notify an applicant if an application is incomplete. Complete applications will be sent to the Idaho Department of Water Resources for review, and they have ten business days to provide comments. Complete applications will also be posted on the Department website for a written comment period of 10 calendar days. The Department must approve or deny an application within 15 business days of receiving a complete application.

Section 5 of the bill establishes the application requirements for integrations. It is similar to the requirements currently in the administrative rules, but the unleased mineral interest owners and the resume of efforts are treated as confidential. Application processing is referred to Idaho Code § 324, which is amended in Section 7 of the bill.

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 22, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|-------------------------------|---|-------------------------------------|
| <u>S 1344</u> | F&G, controlled hunts, drawings | Senator Brackett |
| <u>S 1240</u> | Irrigation, administration charges levied | Norm Semanko, Ex. Director, IWUA |
| <u>S 1241</u> | Irrigation, delinquency assessments | Norm Semanko |
| <u>S 1242</u> | Irrigation, unredeemed delinquency | Norm Semanko |
| <u>S 1278</u> | Water rights, incidental use, hydro | Norm Semanko |
| <u>S 1304</u> | Irrigation districts, election, hydro | Norm Semanko |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Bair | Sen Bayer |
| Vice Chairman Vick | Sen Hagedorn |
| Sen Siddoway | Sen Stennett |
| Sen Heider | Sen Lacey |
| Sen Nuxoll | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 22, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

INTRODUCTION OF PAGE: **Chairman Bair** welcomed and introduced the Committee's page for the second half of the session, Zoe Esplin. Zoe is from Rexburg and attends Madison High School where she is active in speech and debate classes, having competed at the national level. She plans to attend BYU and major in communications and is also interested in international and Latin American studies.

S 1344 **Senator Brackett** presented **S 1344**, which replaces **S 1305** at the request of the Idaho Department of Fish and Game (IDFG). The purpose of this legislation is to provide a process for the IDFG to have an independent entity carry out drawings for tags for controlled hunts. The drawings would be conducted using a computer program that awards permits based on a random order of selection. **Senator Brackett** said this would ensure transparency in the drawing process and would provide credibility in the results.

Senator Stennett asked if the current system was broken. **Senator Brackett** replied that questions have been raised regarding the drawings and there is a cloud over the IDFG.

Senator Heider inquired about the fiscal impact. **Senator Brackett** said the fiscal impact, as indicated on the Statement of Purpose, is approximately \$102,500. That is based on the number of applications.

Senator Siddoway wanted to know how many businesses provide the service that would be required to carry out the drawings. **Senator Brackett** said he is not aware of any companies in Idaho, but he has been told there are 15 or 16 companies in other states.

TESTIMONY: **Sharon Kiefer**, Deputy Director, IDFG, stated that IDFG has not discussed this bill with the IDFG Commissioners, so she could not offer a policy position, just technical observations.

IDFG currently implements a random system of drawing for controlled hunts. In 2015, they offered nearly 40,000 controlled hunt tags specifically for deer, elk and pronghorn in more than 400 hunts. Interest and applications were at an all-time high as hunters submitted approximately 161,000 first-choice applications in 2015. Drawing odds for individual hunts range from less than five percent for certain exceptional antlered or trophy species hunts to nearly 100 percent for certain cow elk and doe deer hunts. Overall, about 75 percent of first-choice controlled hunt applicants are disappointed following results of the annual random drawing process.

Ms. Kiefer said that criticism has been around probably as long as they have had controlled hunts. Regardless of who develops and conducts the controlled-hunt drawing, transparency and credibility will not lessen the feeling of unfairness for those many hunters who never seem to draw but their neighbor always does. It is the luck of the draw. A copy of Ms. Kiefer's full testimony is attached (see attachment 1).

MOTION: **Senator Siddoway** moved that **S 1344** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion.

SUBSTITUTE MOTION: **Senator Hagedorn** moved that **S 1344** be held until the IDFG Commissioners have a meeting to discuss the bill. **Senator Stennett** seconded the motion.

A roll call vote was taken on the substitute motion. Voting aye were Senators Hagedorn, Stennett and Lacey. Voting nay were Senators Bayer, Nuxoll, Heider, Siddoway, Vick and Bair. The substitute motion failed. The original motion carried by **voice vote**. **Senator Hagedorn** asked to be recorded as voting nay. Senator Brackett will be the floor sponsor.

S 1240 **Norm Semanko**, Executive Director, Idaho Water Users Association, presented **S 1240**. **Mr. Semanko** said this legislation increases the maximum administrative fee that may be charged by a canal company in order to bring the user fee to a level that more closely approximates the actual administrative costs to the canal company. In 1980, the Legislature limited the administrative charge to \$10. What was a fair charge in 1980 does not work for the present time, and that is why the proposed fee is being increased from \$10 to \$50.

TESTIMONY: **Jerry Kiser**, Attorney, representing the Farmers Union Ditch Company, said Mr. Semanko had adequately explained the reason for the increase and it is the desire of the canal company to keep in line with the statutory requirements.

Vice Chairman Vick asked if the administrative fee is raised, would any other fees be lowered? **Mr. Kiser** replied that the only thing that would change would be how it is labeled. Administrative costs are part of the overall operational expenses, but the 1980 legislation segregated out a cap on that administrative portion.

MOTION: **Senator Heider** moved that **S 1240** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senator Hagedorn** voted nay and asked to be recorded as such. Senator Heider will be the floor sponsor.

S 1241 **Mr. Semanko** said that **S 1241** clarifies that irrigation district assessment payments are timely when postmarked or received on the due date and that payments due on a weekend are timely if postmarked or received the next business day. **Mr. Semanko** said the Food Producers support this bill, **S 1241**, as well as the previous bill, **S 1240**.

TESTIMONY: **Andy Waldera**, Attorney, Pioneer Irrigation District, testified in support of this legislation.

MOTION: **Vice Chairman Vick** moved that **S 1241** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

S 1242 **Mr. Semanko** said that **S 1242** clarifies that an irrigation district is not required to issue tax certificates for delinquencies and that the district has discretion in deciding whether to do so. **Mr. Semanko** said this legislation clarifying that these issuances are not mandatory; some interpreted the law incorrectly that they were required.

TESTIMONY: **Mr. Waldera** said that in the past few years they have had some individuals who have argued that it is mandatory and it is an issue that just needs cleaned up.

MOTION: **Senator Nuxoll** moved that **S 1242** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Nuxoll will be the floor sponsor.

S 1278 **Mr. Semanko** said this legislation clarifies that an entity operating a canal or conduit for irrigation or other beneficial use is not required to obtain an additional water right to generate hydropower in the same canal or conduit, using the same water, under certain conditions. **Mr. Semanko** stated that they have worked with Chairman Spackman and the Idaho Department of Water Resources (IDWR) and they have no opposition to **S 1278**.

TESTIMONY: **Albert Barker**, Attorney, Boise Project Board of Control, said they found duplicative efforts had to be made and this legislation will correct that. This right does not give anyone, other than the owner of the canal, the right to use water already being diverted through the canal for the purpose of irrigation or other beneficial use. **Mr. Barker** said the Boise Project has three conduit exemption power plants that have been built and they have exemptions for five more, two of which they hope to put online within the next two years. He estimated that there are approximately 50 hydro power plants in canals in the State.

MOTION: **Senator Heider** moved that **S 1278** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Lacey will be the floor sponsor.

S 1304 **Mr. Semanko** said this legislation clarifies that an irrigation district is not required to conduct an election or confirmation proceeding when construction of a hydroelectric plant does not involve any indebtedness.

MOTION: **Senator Hagedorn** moved that **S 1304** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Hagedorn will be the floor sponsor.

Chairman Bair thanked the Committee for their hard work.

ADJOURNED: **Chairman Bair** adjourned the meeting at 2:50 p.m.

Senator Bair
Chair

Juanita Budell
Secretary



Attachment 1
2/22/16

IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

C.L. "Butch" Otter / Governor
Virgil Moore / Director

February 22, 2016

To: The Senate Resources and Environment Committee

Testimony of Sharon W. Kiefer, Idaho Department of Fish and Game
Senate Bill 1344

Chairman Bair and Committee:

We have not been able to discuss Senate Bill 1344 with the Fish and Game Commission so I offer no policy position, just our technical observations.

Senate Bill 1344 adds a new section of Idaho Code to mandate that the Fish and Game Department shall contract with a private entity to conduct a random drawing for controlled hunt tags and permits and tells the Department explicitly how to do it on lines 11-23 on page 5 of the bill.

We appreciate that Senate Bill 1344 is a technical improvement over Senate Bill 1305. However, the inference that a mandate for a third party contractor for the controlled hunt drawing is necessary to ensure transparency and provide credibility, is not substantiated. I do recognize the importance of these attributes to the committee.

The Department currently implements a random system of drawing for controlled hunts. In 2015, we offered nearly 40,000 control hunt tags specifically for deer, elk, and pronghorn in over 400 hunts. Interest and applications were at an all-time high as hunters submitted approximately 161,000 first choice applications in 2015. Drawing odds for individual hunts range from less than 5% for certain exceptional antlered or trophy species hunts to nearly 100% for certain cow elk and doe deer hunts. Overall, about 75% of first choice controlled hunt applicants are disappointed following results of the annual random drawing process.

In our current, random controlled hunt program, each hunter applying for a specific hunt has an equal chance of being drawn. For example, if 100 hunters apply for a 20-tag controlled hunt, each individual applicant has a 20% probability of drawing a tag in that hunt or viewed another way, a hunter who consistently applies for that hunt should expect to draw a tag once every 5 years. However, because the selection is random, some applicants do not realize those odds. Drawing odds are averages – the overall odds for all hunters. Some hunters may draw 2 times in 5 years, while others may not draw for 10 years or more. Disparity in the ‘luck of the draw’ can instill a feeling of unfairness. Some critics have gone so far as to accuse the current system as “rigged” to benefit specific individuals. This is an accusation without merit.

Criticism has been around probably as long as we’ve had controlled hunts. For example, I recently came across a 1977 report that the Department requested from a professor at BSU who

studied the Department's system for issuing controlled hunt permits. The professional opinion was that the system satisfied the criteria of a random process under which each applicant has a fair and equal chance of being selected and that no applicant could devise a strategy to improve their odds of selection.

Regardless of the fact that we do have a certified random controlled hunt procedure, the department has pursued development of a third-party control hunt module since 2012 with the modification of our license contract with our current contractor. This is a business move; our current program is written in computer code that is becoming obsolete and it is housed on a mainframe at the State Controller's Office that is becoming outdated.

Unfortunately, due to the vendor's staffing levels and technical challenges, including introduction of a new software platform, the original deadline has not yet been met but we are still actively pursuing the effort, with a new controlled hunt draw module expected in late 2016 or early 2017. Further, we are developing a Request for Proposal (RFP) for a new license system once our current contract expires in February 2018, and it will include the requirement for a contractor-developed (i.e. third party) random, controlled hunt draw system. We expect our RFP to hit the street this summer.

So, essentially, Senate Bill 1344 creates a mandate for the Department to pursue a path that, as a business efficiency, we are already pursuing. While on the surface it does not seem technically onerous, I will say that because the inference of this mandate has been that our current system is not transparent or credible, it has been quite demoralizing and an affront to our very dedicated licensing staff, who take pride in providing a random controlled hunt drawing that has not had one credible accusation of impropriety. This bill seems to enact policy from a standpoint that the Department is guilty of wrong-doing and must be mandated to do something different.

Regardless of who develops and conducts the controlled hunt drawing, transparency and credibility will not lessen the feeling of unfairness for those many hunters who never seem to draw but their neighbor always does. It is the luck of the draw. As a business move, we will continue to pursue a third party contract for our controlled hunt module whether you find favor with S1344 or not.

Related to the fiscal note, our current license contract with a third party vendor is an integrated license system and because contractor development of the control hunt module is already in our amended contract, one could argue that there is no "new" fiscal effect relative to FY17 (our current annual cost of our total contract is \$1.9M). Our upcoming RFP will also be for an integrated license system including the contractor developed control hunt module so we are unable to estimate just the cost of the control hunt module.



Attachment 1
2/22/16

IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

C.L. "Butch" Otter / Governor
Virgil Moore / Director

February 22, 2016

To: The Senate Resources and Environment Committee

Testimony of Sharon W. Kiefer, Idaho Department of Fish and Game
Senate Bill 1344

Chairman Bair and Committee:

We have not been able to discuss Senate Bill 1344 with the Fish and Game Commission so I offer no policy position, just our technical observations.

Senate Bill 1344 adds a new section of Idaho Code to mandate that the Fish and Game Department shall contract with a private entity to conduct a random drawing for controlled hunt tags and permits and tells the Department explicitly how to do it on lines 11-23 on page 5 of the bill.

We appreciate that Senate Bill 1344 is a technical improvement over Senate Bill 1305. However, the inference that a mandate for a third party contractor for the controlled hunt drawing is necessary to ensure transparency and provide credibility, is not substantiated. I do recognize the importance of these attributes to the committee.

The Department currently implements a random system of drawing for controlled hunts. In 2015, we offered nearly 40,000 control hunt tags specifically for deer, elk, and pronghorn in over 400 hunts. Interest and applications were at an all-time high as hunters submitted approximately 161,000 first choice applications in 2015. Drawing odds for individual hunts range from less than 5% for certain exceptional antlered or trophy species hunts to nearly 100% for certain cow elk and doe deer hunts. Overall, about 75% of first choice controlled hunt applicants are disappointed following results of the annual random drawing process.

In our current, random controlled hunt program, each hunter applying for a specific hunt has an equal chance of being drawn. For example, if 100 hunters apply for a 20-tag controlled hunt, each individual applicant has a 20% probability of drawing a tag in that hunt or viewed another way, a hunter who consistently applies for that hunt should expect to draw a tag once every 5 years. However, because the selection is random, some applicants do not realize those odds. Drawing odds are averages – the overall odds for all hunters. Some hunters may draw 2 times in 5 years, while others may not draw for 10 years or more. Disparity in the ‘luck of the draw’ can instill a feeling of unfairness. Some critics have gone so far as to accuse the current system as “rigged” to benefit specific individuals. This is an accusation without merit.

Criticism has been around probably as long as we’ve had controlled hunts. For example, I recently came across a 1977 report that the Department requested from a professor at BSU who

studied the Department's system for issuing controlled hunt permits. The professional opinion was that the system satisfied the criteria of a random process under which each applicant has a fair and equal chance of being selected and that no applicant could devise a strategy to improve their odds of selection.

Regardless of the fact that we do have a certified random controlled hunt procedure, the department has pursued development of a third-party control hunt module since 2012 with the modification of our license contract with our current contractor. This is a business move; our current program is written in computer code that is becoming obsolete and it is housed on a mainframe at the State Controller's Office that is becoming outdated.

Unfortunately, due to the vendor's staffing levels and technical challenges, including introduction of a new software platform, the original deadline has not yet been met but we are still actively pursuing the effort, with a new controlled hunt draw module expected in late 2016 or early 2017. Further, we are developing a Request for Proposal (RFP) for a new license system once our current contract expires in February 2018, and it will include the requirement for a contractor-developed (i.e. third party) random, controlled hunt draw system. We expect our RFP to hit the street this summer.

So, essentially, Senate Bill 1344 creates a mandate for the Department to pursue a path that, as a business efficiency, we are already pursuing. While on the surface it does not seem technically onerous, I will say that because the inference of this mandate has been that our current system is not transparent or credible, it has been quite demoralizing and an affront to our very dedicated licensing staff, who take pride in providing a random controlled hunt drawing that has not had one credible accusation of impropriety. This bill seems to enact policy from a standpoint that the Department is guilty of wrong-doing and must be mandated to do something different.

Regardless of who develops and conducts the controlled hunt drawing, transparency and credibility will not lessen the feeling of unfairness for those many hunters who never seem to draw but their neighbor always does. It is the luck of the draw. As a business move, we will continue to pursue a third party contract for our controlled hunt module whether you find favor with S1344 or not.

Related to the fiscal note, our current license contract with a third party vendor is an integrated license system and because contractor development of the control hunt module is already in our amended contract, one could argue that there is no "new" fiscal effect relative to FY17 (our current annual cost of our total contract is \$1.9M). Our upcoming RFP will also be for an integrated license system including the contractor developed control hunt module so we are unable to estimate just the cost of the control hunt module.

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 24, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|---|---|--|
| Gubernatorial Appointee Hearing | William B. Booth, Hayden, Idaho was reappointed to the Northwest Power and Conservation Council to serve a term commencing January 15, 2016, and expiring January 15, 2019. | |
| Presentation | Good Neighbor Authority (GNA) | Tom Schultz, Director, IDL; David Groeschl, State Forester & Deputy Director of Forestry & Fire, Idaho Department of Lands |
| S 1338 | Public nuisance abatement/procedure | Senator Nuxoll |
| H 378 | F&G, trapping ed programs | Rep. Youngblood and Sharon Kiefer, IDFG |
| Docket No. 13-0116-1501 | The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals | Sharon Kiefer, IDFG |
| H 350 | F&G, upland game bird permits | Sharon Kiefer, IDFG |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Bair | Sen Bayer |
| Vice Chairman Vick | Sen Hagedorn |
| Sen Siddoway | Sen Stennett |
| Sen Heider | Sen Lacey |
| Sen Nuxoll | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 24, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn and Stennett

ABSENT/ EXCUSED: Senator Lacey

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT HEARING: **Chairman Bair** welcomed William Booth of Hayden, Idaho, who has been reappointed to the Northwest Power and Conservation Council (NPCC) to serve a term commencing January 15, 2016, and expiring January 15, 2019.

Mr. Booth stated that he was originally appointed to the NPCC in 2007 and it was a pleasure to be before the Committee again. He is a 55-year resident of Idaho, growing up on a farm near Post Falls. After graduating from the University of Idaho, Mr. Booth served a tour of duty in the U.S. Air Force as a missile officer and later earned an MBA. He then was employed in Northern Idaho by the silver mining industry, retiring as Vice President of Government and Environmental Affairs for Hecla Mining Company of Coeur d'Alene.

In January 2016, Mr. Booth was elected Vice Chairman of the NPCC. NPCC was created by an Act of Congress in 1980 with three main responsibilities: 1.) develop a 20-year regional power plan; 2.) implement a program to mitigate for fish and wildlife losses caused by hydropower dams in the Columbia Basin; and 3.) bring transparency and involve Northwest citizens in its decision-making. NPCC has representation from Idaho, Montana, Oregon and Washington and is funded by Bonneville Power Administration.

Mr. Booth said his goals for NPCC in the coming three years are centered on a continued commitment to the principle tenant of the Power Act, which is to "ensure an affordable and reliable energy system while enhancing fish and wildlife in the Columbia River Basin."

Chairman Bair thanked Mr. Booth for appearing before the Committee and said that consideration of his reappointment would take place next Wednesday, March 2.

PRESENTATION: **Tom Schultz**, Director of Idaho Department of Lands (IDL), provided an overview of the Good Neighbor Authority (GNA). The GNA enables the U.S. Forest Service (USFS) to partner with states to achieve restoration and resilient landscape objectives across ownership boundaries through cooperative agreements.

The 2014 farm bill and the 2014 Consolidated Appropriations Act provided the authority for the USFS to enter into contracts and agreements with state agencies to perform forest, rangeland and watershed restoration services, including timber sales. After more than a decade of temporary authority limited to two states, the authority was expanded to include all states with national forest system land and Bureau of Land Management (BLM) public land.

The goal of the GNA in Idaho is to increase the pace and scale of forest and watershed restoration activities in federal forests when similar and complementary actions are occurring on nearby state lands. These cooperative efforts can help improve forest health, reduce fuels and wildfire threats to communities and watersheds and create more jobs and economic benefits. Successful implementation of GNA in Idaho will require a focused and committed effort from all partners over the next several years to achieve these benefits.

The 2015 Legislature passed SCR 126, which requested the IDL perform certain duties with the federal government regarding federal lands and to provide for periodic reports. Following are the four items that were requested and the current status of each:

1. Develop agreements with federal agencies based on the GNA. Status: The IDL hired a contractor and they have met with USFS staff to discuss the development of a GNA master agreement. They also met with forest industry representatives to gauge funding support for implementing GNA projects.
2. Establish an internal working group to meet with federal land management agencies and to identify specific parcels of federal lands suitable for use of the GNA. Status: An internal working group was established in 2014 after passage of the 2014 farm bill. They represent a diverse group of stakeholders. The group met in January and June of 2015.
3. When considering federal parcels for possible use of the GNA, the working group shall consider such factors as proximity to communities, natural resources production, economic viability, minimization of environmental impact and other factors. Status: The GNA contractor is currently working with IDL and forest service timber staff to analyze the economic, operational and biological viability of possible GNA projects that are cleared by the National Environmental Policy Act (NEPA).
4. Report to the Idaho Legislature and to the federal agencies at least annually as to the status and performance of any proposed or executed agreement under the GNA. Status: This update serves as the annual report to the Idaho Legislature and to the federal agencies as to the GNA efforts in Idaho.

During this legislative session, IDL is asking the Idaho Legislature to approve a \$562,000 budget enhancement that will enable IDL to:

- Fill three positions, purchase necessary equipment and supplies and implement GNA in Idaho. The positions include a program manager, forester and grants/contracts analyst (\$262,000).
- Contract with professional foresters to conduct surveys and stand exams and perform timber sale preparation and administration through GNA agreements (\$300,000).

David Groeschl, State Forester and Deputy Director of Forestry and Fire, IDL, provided a PowerPoint presentation. **Mr. Groeschl** stated that the real goal of the GNA is to increase the pace and scale of restoration on federal lands in Idaho.

The 2014 farm bill had three key provisions in the forestry section. The first was the current authorization of stewardship contracting; the second was the expansion of the GNA to all states that had national forest system lands within their boundaries; and the third provision was an amendment to the Healthy Forest Restoration Act (HFRA) that allowed the governors of every state to designate insect and disease areas under the HFRA that were high risk.

In Idaho, work was done by the collaborators in place, including the USFS, to identify the areas of high risk. Idaho has approximately 20 million acres of federal forest land. Under the farm bill, areas that were eliminated were the wilderness areas, as well as the roadless areas. Of the 20 million acres, 12.6 million acres had been designated as suitable for some level of management; of those acres, 8.8 million acres are at high risk of insect and disease mortality, as set forth in the farm bill.

Mr. Groeschl said they were given 60 days to identify the proposed treatment areas and it was a collective effort by the collaborators. Fifty areas, totalling 1.8 million acres, all fell in the high-risk category. In late March 2014, the Governor submitted those 50 proposed treatment areas to the Secretary of Agriculture and they were accepted in May 2014.

Since that time, IDL has looked at the authorities provided under the farm bill and examined how to address the issues. A working group was formed that included county commissioners, conservation organizations, tribes, USFS and IDL. Several meetings were held to look at these authorities and determine what kind of mechanism would work best in Idaho to start addressing these high-risk areas. They looked at stewardship contracting, which is an important tool by the USFS, but IDL felt they could not add value to the process. They also explored what Montana was doing under a master stewardship agreement; some valuable lessons were learned with regard to what they had attempted to do there.

IDL looked at a nonprofit concept, which was met with mixed results. They then looked at the GNA vehicle more closely and compared it to stewardship contracting, which is done under the USFS authority. With the GNA, the USFS enters into a cooperative agreement with IDL in implementing NEPA-cleared projects. The collaborators have an important role in working locally to follow these projects. Once the projects are cleared, IDL evaluates which projects to take on under the GNA. **Mr. Groeschl** stated that their strength lies in implementation and adding capacity to get more work done once the projects have cleared NEPA.

Mr. Groeschl briefly reviewed the four items set forth in SCR 126 as presented by Director Schultz earlier. The initial startup funds for this do not involve any state dollars. They come from some federal funding and dedicated dollars from industry to help until the process generates enough revenue for the GNA to become self-sustained. This is very different from the endowment program. The endowment program is focused on the forest management program on endowment lands to maximize long-term revenue. The goal is to pick the right projects to initiate enough revenue. The net revenue from the GNA fund would be used for two objectives: to accomplish more work on the ground and to cover the administrative costs for staff to administer these projects. After five years, federal dollars will go away and industry dollars will likely go away also.

Mr. Groeschl said the focus is on the end results, figuring out the details as they go and working hard to make the GNA successful in increasing the pace and scale of restoration of the federal lands.

Time was allowed for some discussion.

Chairman Bair passed the gavel to Vice Chairman Vick.

**PASSED THE
GAVEL:**

Senator Nuxoll presented **S 1338** and said that his legislation allows counties in Idaho to declare a catastrophic public nuisance and request abatement from federal land management agencies when the condition of federally managed land presents a danger of catastrophic wildfire, polluted drinking water and air quality and threatens the health, safety and welfare of the citizens. She said it simply brings all involved entities to the drawing table to coordinate goals.

Senator Nuxoll provided some background information. In Idaho, approximately 742,000 acres burned, according to the IDL. In the U.S., the total wildfire acreage burned was over 10 million acres. This was the worst U.S. fire season in at least 55 years. Forty seven percent of the acres burned were USFS land; 31 percent were BLM land; 16 percent were private land; 4 percent belonged to IDL and 2 percent, all other. It has been pointed out that although fire can start anywhere, whether by lightning strikes or by man-made causes, "managed lands" face fewer ill effects. The reason is there is a shorter duration of the fire due to lower fuel loads and better access to forests via roads. In summary, **Senator Nuxoll** said the fires are of lower intensity and easier to fight on "managed" versus "unmanaged lands."

Senator Nuxoll stated that the USFS is not proactively managing their lands with respect to fire abatement by appropriate thinning and logging. Their budget has been reduced for forest management because they are spending all their money on fighting fires. Logging on USFS lands in Idaho is down 90 percent from the 1970s peak. The threat of wildfire can be demonstrated by stand density and fuel load of forested areas, insect infestation or disease infestation. When the condition in the forested area threatens the quality or quantity of the public water supply of a county, the health, safety or welfare of the citizens of a county, the air quality of a nonattainment area or the vegetative resources required to support land health and authorized grazing, the chief executive officer or county sheriff of a county can request abatement with this legislation.

What this bill does is to allow counties in Idaho, through their elected commissioners, to identify forest lands owned by the U.S. government and managed by the USFS as "catastrophic public nuisances." It allows counties to demonstrate the public land nuisance threat by using publicly available forest health data or data from private sources detailing that the conditions in the forested area threaten the quality or quantity of the public water supply of a county, the health, safety or welfare of the citizens of a county, the air quality of a nonattainment area or the vegetative resources required to support land health. The bill also allows counties, after consultation with the Attorney General (AG), to demand that federal agencies abate the nuisance or provide a response with a plan to abate the nuisance by a requested date of 30 days. It allows counties to confer with the prosecuting attorney or AG should no action be taken by the USFS.

Senator Nuxoll then explained what the bill does not do. It does not impair, interfere with, or infringe upon federal laws or regulations or the management of federal lands because it does not authorize or direct the responsible officials to take any action to abate the catastrophic public nuisance beyond notification of the authorities currently managing those lands, and thereafter only authorizes pursuit of legal remedies already available under existing law.

Senator Nuxoll cited three things that opponents say: 1.) Similar legislation was struck down by federal courts in New Mexico 2.) The bill can't compel the federal agencies to do anything that they don't want to do, it confers no new powers 3.) We need more collaboration with federal agencies and this is a step in the wrong direction.

Her rebuttal to the opponents was that the New Mexico legislation was vastly different; it directed counties to take direct action and have contractors harvest timber on USFS land if the USFS did not do so. Utah passed legislation similar to this bill and discussions involving Garfield, Iron County and the supervisor of the Dixie National Forest have moved forward. Arizona is considering similar legislation now.

Senator Nuxoll said that although it is true that the bill can't compel federal agencies to do anything, it can highlight the fire dangers and call out inaction by the USFS. Opponents are fearful because they don't want the public to understand the magnitude of federal mismanagement. **Senator Nuxoll** said that collaboration is a tool, but what if that fails? How does that help a homeowner or community facing an imminent threat?

TESTIMONY:

Fred Birnbaum, representing the Idaho Freedom Foundation, testified in support of **S 1338**. He reinforced what Senator Nuxoll said as to what the bill does and does not do. He stated that this should not be a partisan issue. The Idaho Conservation League's mission and vision state that they work to "protect the air you breathe, the water you drink, and the land you love." **Mr. Birnbaum** said that is the reason they are here today, to promote proper land management practices by the USFS so that we don't have 8.8 million acres of U.S. forest in Idaho with a high degree of mortality risk and a very real threat of wildfires in our communities.

Jim Chmelik, Idaho County Commissioner, testified in support of **H 1338**. He stated that it is not a cure-all, but will create something in a cooperative fashion with the USFS. Idaho County has 5.4 million acres; of that, 4.7 million acres are federally managed. There is a lot of timber ground and since 2012, over ten percent has burned to the ground. He feels the problem with the agencies is not the funding, but the problem lies with not managing the forests. Mr. Chmelik showed several slides of a fire and the destruction it has caused. One source of destruction was the soot and ashes from the fire going into the streams and rivers and polluting the water. A slide also showed treated areas versus non-treated areas of forest land and how the fire was extinguished much sooner in the treated areas.

Kelly Abersteri, Owyhee County Commissioner, also testified in support of **H 1338**. In a 24-hour period in Owyhee County, 100,000 acres burned. Had there not been previous fires on the valley floor, they would have lost homes. There was a cost of \$67 million to rehabilitate the lands. From 1983 to 1989, approximately 2 million acres were burnt annually; 1990 to 2000, 4 to 5 million acres were burnt annually; and since 2001 to present, approximately 9 to 10 million acres are burnt annually. **Mr. Abersteri** stated that counties need something to counter with against the federal government.

Forrest Goodrum, representing the Ada County Fish and Game League, said it appears that the county commissioners already have the ability to do everything that is in this bill, **S 1338**. **Mr. Goodrum** said there are a number of laws on the books concerning public nuisances and he doesn't disagree that there isn't a problem. He stated that this bill doesn't actually do anything and he is wondering why another law is being added. **Mr. Goodrum** suggested sending a memorandum instead of passing a statute.

Vice Chairman Vick announced that no action would be taken on **S 1338** and discussion would be continued at a later date, at the call of the Chair, as well as the remaining bills on the agenda.

ADJOURNED: **Vice Chairman Vick** adjourned the meeting at 3:05 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

JOINT
**SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE**

1:30 P.M.

Lincoln Auditorium WW02

Monday, February 29, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|----------------|--|---|
| Presentation | Is Permanent Federal Ownership of the Majority of the Land in the State of Idaho Constitutional? | George Wentz, Attorney at Law; Rep. Keven Stratton (Utah) & Sen. David Hinkins (Utah), Co-chairs, Utah Commission for the Stewardship of Public Lands |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair

Vice Chairman Vick

Sen Siddoway

Sen Heider

Sen Nuxoll

Sen Bayer

Sen Hagedorn

Sen Stennett

Sen Lacey

COMMITTEE SECRETARY

Juanita Budell

Room: WW37

Phone: 332-1323

email: sres@senate.idaho.gov

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, February 29, 2016

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium WW02

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Hagedorn, Stennett and Lacey

Chairman Raybould, Vice Chairman Gestrin, Representatives Moyle, Andrus, Shepherd, Boyle, Vander Woude, Gibbs, Miller, Bateman, Burtenshaw, Mendive, VanOrden, Youngblood, Pence, Erpelding, Rubel

ABSENT/ EXCUSED: Senator Bayer and Representative Wood

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Raybould** called the joint meeting of the House Resources and Conservation Committee and the Senate Resources and Environment Committee (Committees) to order at 1:30 p.m. **Chairman Raybould** announced that this meeting is for information only and no public testimony will be taken, only questions from the legislators.

WELCOME: **Chairman Raybould** welcomed George Wentz, Attorney and moderator for today's presentation; Utah Representative Keven Stratton; and Utah Senator David Hinkins. Representative Stratton and Senator Hinkins are co-chairs for the Utah Commission for the Stewardship of Public Lands (Utah Commission).

PRESENTATION: **Mr. Wentz** said the title of the presentation was "Is Permanent Federal Ownership of the Majority of the Land in the State of Idaho Constitutional?" He is a partner in the Davillier Law Group in New Orleans, Louisiana, has lived in Idaho for five years and is an adjunct professor at the College of Law, University of Idaho. **Mr. Wentz** said that he and his family are proud Idahoans even though his office is in Louisiana. He then asked Representative Stratton to provide an overview of the proceedings regarding Utah's stewardship of public lands, to be followed by Senator Hinkins.

Representative Stratton said the Utah Commission was established because of the concern for their public lands. He said they have tremendous resources in terms of beauty and pristine environment and there is a challenge going on with the federal counterparts of managing public lands. **Representative Stratton** said Utah feels they can do a much better job if they can control their public lands.

Representative Stratton stated that Utah's legislature established a commission to study, make recommendations, work with the Governor, Attorney General and the federal delegation as they deal with these important issues. He said the Utah Constitution provides ways to address concerns. At the core of the God-given rights is the responsibility and the stewardship to control property. **Representative Stratton** said he is not talking about the sale of public lands to the private sector. He is referring to the preservation of what they value.

Utah has five national parks plus pristine wilderness and that is what they want to protect. However, the message often gets misconstrued. There were some pieces of property, as stated in the 1976 Federal Public Land Management Act (FPLMA), that codified the sale of land. Utah has an \$8 billion tourist industry and they are doing their best with their public lands. The Utah Commission recognizes they have the economic vitality that is so important to transfer and control the public lands in Utah.

Senator Hinkins said there is a powerline being built through Utah that is coming from wind generation in Wyoming and going to California, with no on or off ramps for power in Utah. In the process, they are condemning private property and Utah basically has no say because the federal government owns 66 percent of the land. **Senator Hinkins** stated that he represents six counties in southeastern Utah and they feel they are not being treated equally due to the tax structure and the federally owned lands.

Mr. Wentz said the issue before the Committees today is that the majority of the land in the West is owned by the federal government, and in the East it is not. Looking at history, the 12 Western states are treated differently than the other 38 states.

Mr. Wentz said he wanted to talk about the equality of the states, the sovereignty of the states and how the states and the federal government interact. The U.S. Constitution was designed to protect the life, liberty and property of people. The founders did not want a central government that would become tyrannical. In the case of *Shelby County versus Holder*, the Supreme Court in 2013, Chief Justice Roberts said "not only do States retain sovereignty under the Constitution, there is also a fundamental principle of equal sovereignty among the States. Over a hundred years ago, this Court explained that our nation was and is a union of States, equal in power, dignity and authority. Indeed, the constitutional equality of the States is essential to the harmonious operation of the scheme upon which the Republic was organized. The fundamental principle of equal sovereignty remains highly pertinent in assessing subsequent disparate treatment of States."

Mr. Wentz stated that the equal sovereignty principle makes perfect sense when we consider that our nation is indeed a federation of states. The central government was created by independent sovereign states that had won their independence from the King and was not about to go into a new organization where they were going to be less than equal. In the past, when this issue has been raised, the government has always argued that a state's dominion, the land within its borders, has nothing to do with sovereignty.

Six Eastern states had claims to Western land, while seven states did not. There were landlocked states and states with extensive Western holdings. This was during the Revolutionary War. With conflicting land claims among the states, it started to turn the states against one another at a time when they had to unite to fight the British. To make matters worse, under the 1609 Charter, Virginia claimed land all the way to the Pacific Ocean. Maryland refused to join the Union and insisted that the states with Western land claims give those claims up. Maryland posed a simple solution. The new central government that the states were forming would need to hold the lands in trust until they could be formed in the new totally equal members of the union. On October 10, 1780, Congress agreed in passing the following resolution: "That the unappropriated lands that may be ceded or relinquished to the United States, by any particular state.... shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican states, and have the same rights of sovereignty, freedom and independence as the other states."

Mr. Wentz said that history dictates that the states must be equal in sovereign power, and the states saw that as dominion of their land. In the federal system, the states create the central power. He then posed the question: Is Idaho weaker than New York because Idaho doesn't have dominion over all its land? **Mr. Wentz** said Idaho is weaker. Two rights that the U.S. Supreme Court recognizes that are fundamental sovereign states' rights are taxes and self government. Taxes are the fuel of self government and Idaho cannot tax 61 percent of its land. It gets a check from the federal government called 'payment in lieu of taxes.' **Mr. Wentz** feels that places political pressure on states that receive these payments and the citizens of "weak states" will never be equal to the citizens of "strong states."

Mr. Wentz said that state sovereignty is not just an end in itself; rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power. Because the police power is controlled by 50 different states instead of one national sovereign, the facets of governing that touch on citizens' daily lives are normally administered by smaller governments closer to the governed. The framers thus ensured that powers that "in the ordinary course of affairs, concern the lives, liberties, and properties of the people" were held by governments more local and more accountable than a distant federal bureaucracy. The independent power of the states also serves as a check on the power of the federal government: "By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power." (Chief Justice Roberts, Supreme Court, 2012).

Mr. Wentz asked if Idaho got the same sovereignty that the original 13 states got. **Mr. Wentz** then made five statements regarding sovereignty.

1. Ownership of the unappropriated public lands historically always rests with the sovereign as an inherent incident of sovereignty.
2. The crown owned all the unappropriated public lands of the 13 colonies as an inherent incident of sovereignty.
3. Upon independence, the original 13 states succeeded to ownership of the unappropriated public lands within their borders as an inherent incident of sovereignty.
4. New states are admitted as equal sovereigns with the original 13 states.
5. Idaho has been denied ownership of the same exact category of lands the original states got as an inherent incident of sovereignty.

Mr. Wentz questioned why the 12 Western states were denied ownership. In 1845, the U.S. Supreme Court said that "whenever the United States shall have fully executed these trusts, the municipal sovereignty of the new states will be complete, throughout their respective borders, and they, and the original states, will be upon an equal footing, in all respects whatever."

In closing, **Mr. Wentz** said that in 1913, the 16th Amendment was passed and it had an income tax; all interest was lost in liberating the Western lands. Congress discovered that instead of holding all that land in trust for the newly admitted states, it was theirs and they wanted to keep it forever. The federal government reached a compact violating the equal sovereignty principle and the equal footing doctrine and that is a result that the Constitution doesn't allow.

Time was allowed for a few questions from the Committee.

ADJOURNED: **Chairman Raybould** thanked the presentees, then adjourned the meeting at 3:00 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 02, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Nuxoll** moved to approve the Minutes of February 17, 2016. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Senator Siddoway moved to approve the Minutes of February 19, 2016. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

Senator Heider moved to approve the Minutes of February 22, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Vice Chairman Vick** moved to send the Gubernatorial appointment of William B. Booth to the Northwest Power and Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the sponsor.

S 1338 **Chairman Bair** said discussion would continue on **S 1338** as not everyone got to testify at the meeting of February 29, 2016. **Chairman Bair** asked Fred Birnbaum, cosponsor of the bill and representing the Idaho Freedom Foundation, to provide a brief overview of the bill.

Mr. Birnbaum said that **S 1338** allows counties in Idaho, through their elected commissioners, to identify forest lands owned by the U.S. government and managed by the United States Forest Service (USFS) as "catastrophic public nuisances." After consultation with the Attorney General (AG), the counties can then demand that federal agencies abate the nuisance or provide a response with a plan to abate the nuisance by a requested date of 30 days. It allows counties to confer with the prosecuting attorney or AG should no action be taken by the USFS.

Mr. Birnbaum stated that the bill does not impair, interfere with or infringe upon federal laws or regulations or the management of federal lands.

Mr. Birnbaum said there were two points that came up in the previous meeting that he would like to address. The first was regarding New Mexico's similar legislation that was struck down by the federal court. That legislation authorized agencies to act and this bill does not. The other issue related to the AG's letter; Mr. Birnbaum drew attention to the final paragraph in the letter, which read, "....The proposed legislation clarifies and defines the County Chair's authorities under Idaho law with respect to the question of 'catastrophic public nuisances' on federally managed land with the county, and limits the County Chair's authority to take unilateral or unapproved abatement actions on federal lands that could result in liability to the county and/or state."

TESTIMONY:

James Piotrowski, an attorney, fly fisherman and hunter, speaking for himself, testified in opposition to **S 1338**. He said this legislation will start a fight that the State of Idaho cannot win and should not win. Outdoorsmen help clean up the environment and participate in forest collaborative groups to find solutions for problems that face our forests today. The USFS and the Bureau of Land Management (BLM) don't always accomplish their goals and don't always do what we think is the best possible job in managing the federal lands. This bill conflicts with Article 4, Section 3, of the U.S. Constitution and it simply doesn't do anything. **Mr. Piotrowski** said Idahoans know how to solve the problems we face in our forests and how to improve the management of the federal lands. It is through a forest collaborative process, much like that used to establish the the Owyhee River Wilderness, which had the support of hunters, anglers, ranchers and farmers. **Mr. Piotrowski** said that he knows of at least 10 collaborative groups that are making great strides in land management and suggested that people support these groups and reject this bill.

Jeff Brooks, civil engineer, outdoorsman and hunter, said that he opposes **S 1338** because it seems to place undue authority in the hands of nonresource professionals who do not have the expertise to manage the land. **Mr. Brooks** stated that the executives, as defined in the bill, are not well-equipped or suited to be given the authority for land management that should be conducted by professionals.

Michael Gibson, Idaho Field Coordinator for Trout Unlimited Sportsmen's Conservation Project, testified in opposition to **S 1338**. He stated that he represents more than 2,000 members in Idaho, all with a mission to conserve, protect and restore Idaho's world-class cold-water fisheries and their watersheds. Trout Unlimited staff and volunteers have been, and still are, members of forest collaborative groups throughout Idaho. **Mr. Gibson** praised the county sheriffs for the work they do, but said he doubts if any have a degree in forest management. On behalf of the members of Trout Unlimited, he asked that **S 1338** be held in Committee.

Rialin Flores, representing the Conservation Voters for Idaho, also testified in opposition to **S 1338**. She said they support land management strategies and this bill does not accomplish that goal. The bill does nothing that is not already available to the counties and sheriffs. **Ms. Flores** stated that the impact of the bill undermines the current collaborative land management strategy.

Brian Brooks testified on behalf of the Idaho Wildlife Federation. They are dedicated to the conservation and protection of Idaho's natural resources, wildlife and habitat. **Mr. Brooks** said they feel that **S 1338** will undermine Idaho's history of collaboration among agencies and conservation groups that solve complex issues on public lands, and for that reason they do not support the bill.

Jonathan Oppenheimer, Senior Conservation Associate with the Idaho Conservation League (ICL), said ICL represents more than 25,000 members and supporters from across the State of Idaho. **Mr. Oppenheimer** said they are in opposition to **S 1338** as they have concerns with the bill, and urge that the bill be held in Committee. He said that at least 10 efforts are currently underway across the State to promote collaborative solutions for federal lands. Instead of encouraging counties to use a stick to go after the public land managers, he is urging the Committee to learn more about and support the existing successful collaborative efforts. **Mr. Oppenheimer** urged the Committee to hold **S 1338** in Committee.

Travis Smith, a student at Boise State University and a resident of Malad City, spoke in opposition to **S 1338**. He feels it will have a negative impact on the hunting and fishing areas and suggested that more work should be done on collaborative efforts.

Kahle Becker said he is representing himself and his family, but is also a lawyer. **Mr. Becker** said **S 1338** will allow counties to sue the federal government, and the State will have to defend its law. History has shown that Idaho has sold 1.2 million acres of endowment land and people that don't know their history are doomed to repeat it. **Mr. Becker** stated that this bill is a way for Idaho to stick its finger in the eye of the federal government and asked the Committee to reject the bill.

Ian Malepeai, a member of the Backcountry Hunters and Anglers, is representing himself and is opposed to **S 1338**. One of his concerns is how "public nuisance" is defined. He suggested to work on things that are enforceable.

Braden Jensen, representing the Idaho Farm Bureau Federation, spoke in favor of **S 1338**. He stated that this bill makes the county government aware of the action that they can take to protect the public as well as the land. It also calls attention to the areas of mismanagement and is a step in the right direction. **Mr. Jensen** said that he urges the Committee to support this bill.

Andy Brunelle, Capitol City Coordinator with the USFS, said he talked with the seven national forest supervisors regarding this legislation. The information he received was: 1.) Are they (writers of the bill) aware that everything is already going on. 2.) There are legal uncertainties regarding how the bill would apply to the national forest managers.

Mr. Brunelle said there are two things that are going on today between the USFS and county officials. First, the Idaho Panhandle National Forest officials sit down with county officials from every county, in the same room, at the same time, to develop a five-year vegetation action management plan for the national forests in Benewah, Shoshone, Bonner, Boundary and Kootenai Counties. **Mr. Brunelle** stated that these meetings have been going on for years, and they just met last Monday. Second, every county in Idaho has a plan that is called the Community Wildfire Protection Plan. These plans were first developed in 2001 and have been updated twice. The Healthy Forest Restoration Act was passed by Congress in 2003 and signed into law; it recognizes the Community Wildfire Protection Plan as guidance documents to promote treatment of hazardous fuels on national forest and BLM lands. **Mr. Brunelle** said that is a piece of legislation that is in U.S. law that gives counties or cities in Idaho the approach the USFS takes. The USFS then identifies and prioritizes the hazardous fuel treatment projects. He emphasized that these two things are already going on.

The forest supervisors wanted Mr. Brunelle to pass along to the Committee that they are now working on the Governor's priority areas identified in the farm bill for treating insect and disease. Also, some supervisors are feeling some uncertainty because of the laws passed in New Mexico and Utah. However, after receiving the opinion from the Attorney General in Idaho, it helped to dispel some of the concerns that the supervisors had.

Mr. Brunelle said that the USFS has no position on this legislation.

Written testimony was received from the Board of Blaine County Commissioners, signed by Angenie McCleary, Vice Chairman of the Board, opposing **S 1338**.

MOTION:

Senator Bayer moved that **S 1338** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Voting nay and asked to be recorded as such were Senators Stennett and Lacey. Senator Nuxoll will be the sponsor of the bill.

Due to time restraints, the bills on the agenda for the Idaho Department of Fish and Game will be held and heard at the next meeting. **Chairman Bair** apologized for the inconvenience and thanked them for their patience.

ADJOURNED: **Chairman Bair** adjourned the meeting at 3:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, March 07, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|--|---|---|
| H 509 | Oil and gas | Rep. Judy Boyle; Michael Ratchford, UI |
| H 378 | F&G, trapping ed programs | Sharon Kiefer, IDFG |
| Docket No. 13-0116-1501 | The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals | Sharon Kiefer, IDFG |
| H 350 | F&G, upland game bird permits | Sharon Kiefer, IDFG |
| S 1226 | F&G, penalties, game animals | Senator Hagedorn |
| Presentation | Idaho Soil & Water Conservation Commission's Annual Report: " Conservation the Idaho Way: Sowing the Seeds of Stewardship" | Teri Murrison, Administrator, ISWCC |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair

Vice Chairman Vick

Sen Siddoway

Sen Heider

Sen Nuxoll

Sen Bayer

Sen Hagedorn

Sen Stennett

Sen Lacey

COMMITTEE SECRETARY

Juanita Budell

Room: WW37

Phone: 332-1323

email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 07, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

H 509 **Michael Ratchford, Ph.D.**, Director, Idaho Geological Survey, University of Idaho, presented **H 509**. Prior to presenting the legislation, Mr. Ratchford provided some background information. He said the Idaho Geological Survey is a non-regulatory State agency that was created by the Legislature and is administered as a special program at the University of Idaho. The main office is in Moscow and two satellite offices are located in Boise and Pocatello. The Idaho Code specifies that the Idaho Geological Survey is a State agency for collection, interpretation and dissemination of geological information pertaining to oil and gas.

Mr. Ratchford said **H 509** provides for an agreement between the Idaho Geological Survey, the Department of Lands (IDL) and the Oil and Gas Conservation Commission (Commission) for the sharing of mineral, oil and gas geological records derived from exploration or production on lands within the State.

Mr. Ratchford said in order for the Idaho Geological Survey to fulfill its statutory obligations, it needs oil and gas mineral records from the IDL and the Commission to facilitate geological assessments and analysis. **H 509** has support from the IDL, the Commission, the Idaho Mining Association and the Idaho Petroleum Council, as well as Alta Mesa Energy. All requirements for confidentiality of records remain unchanged and there is no fiscal obligation with this legislation.

TESTIMONY: **Tom Schultz**, Director, IDL, said this legislation was supported by the Commission at their February meeting. He said he wanted to draw the Committee's attention to page four, lines 24 through 34, of the bill. It reads, "The commission is authorized to share such records or information with the Idaho geological survey. When any such record or information is exempt from disclosure under the Idaho public records act, section 74-101, et seq., Idaho Code, the sharing of such record or information between the oil and gas conservation commission, the Idaho department of lands, and the Idaho geological survey shall not render the shared information subject to disclosure to other persons under the Idaho public records act, section 74-101, et seq., Idaho Code. Notwithstanding the foregoing, nothing in this section shall be construed to limit the sharing of such records or information by the oil and gas commission and the Idaho department of lands with other state agencies, when authorized by law." (NOTE: Lines 24 through 34 are transcribed exactly as printed in the bill.)

Senator Hagedorn inquired about how the information will be marked to remain confidential and not to be shared with people who should not have access to it. **Mr. Ratchford** said the documents will be earmarked with a tag, and with that tag, IDL will specify when that document will be available to be released.

MOTION:

Senator Bayer moved that **H 509** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.

H 378

Sharon Klefer, Deputy Director, Idaho Department of Fish and Game (IDFG), presented **H 378**. **Ms. Kiefer** said that this legislation remedies a concern expressed by Legislators that certain rules adopted by the Fish and Game Commission lack explicit statutory authority.

H 378 specifically provides statutory authority to the Fish and Game Commission to prescribe and administer an education program for trapping, similar to statutory provisions for hunter education. This is found in section (a) of the bill, beginning on line 10. In section (b) beginning on line 18, they are directed to recruit competent volunteer instructors for trapping education and to provide for their training in subject matter related to hunter and trapping education, also similar to how hunter education is administered. Section (c), beginning on line 26, provides that the fee for a trapping education class shall not exceed \$8, which is similar to the hunter education program.

Ms. Kiefer said that lines 32 through 36 were deleted because of two reasons. First, the referenced certificate of completion is for completion of the course elements that are already noted in section (a). Second, because the Fish and Game Commission has consolidated the variety of youth licenses into the reduced-fee junior license, they no longer issue a youth hunter education graduate hunting license.

Senator Nuxoll inquired as to the length of the classes. **Ms. Kiefer** stated that the classes are a minimum of six hours, but with field exercises it could go longer.

TESTIMONY:

Written testimony was submitted by Mark Collinge, Idaho Trappers Association Board member, who stated support for **H 378** by the Idaho Trappers Association (see attachment 1).

Written testimony was submitted by Nathan Price opposing **H 378** (see attachment 2).

MOTION:

Senator Hagedorn moved that **H 378** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Senator Siddoway** voted nay and asked to be recorded as such. Senator Hagedorn will be the floor sponsor.

**DOCKET NO.
13-0116-1501**

Ms. Kiefer provided some background information for this IDFG rule, The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. She stated that it is a pending rule for mandatory trapping education. Since 2013, the Fish and Game Commission had heard from the general public and sportsmen about conflicts with regard to trapping. A task force was formed to look at options that would address the concerns that were being expressed. The Fish and Game Commission then directed the IDFG to pursue trapping education, and negotiated rulemaking was started.

The text of **Docket No. 13-0116-1501** reads as follows: "All persons who purchased their first Idaho trapping license after July 1, 2010 must successfully complete a Department of Fish and Game trapper education course, or provide proof that such person holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association in another state or country. All persons being certified under this program must have successfully completed at least six hours of instruction in rules, species identification, trapping methods/techniques, wildlife management, ethics, responsibility, and avoiding non-target catches. Those who have taken wolf trapping education from Idaho or from an authorized agency or association in another state or country, are not exempt and must still complete the Idaho trapper education course."

Ms. Kiefer said the fee is \$8, which is the same as for hunter education, and the effective date of the rule would be on or after July 1, 2017.

Ms. Kiefer made the Committee aware of the lawsuit that IDFG is involved in. It pertains to the incidental trapping of lynx, which is in Judge Windmill's court. This rule was developed long before that lawsuit got to Judge Windmill. She feels that this rule and the bill that was just passed, **H 378**, are helpful to the case that IDFG will be making to Judge Windmill, relative to the incidental trapping of lynx. The Judge has ordered IDFG to devise a plan by mid-April to address this.

Senator Bayer inquired about the actions of the House regarding this rule. **Ms. Kiefer** said a member of the House Environment and Technology Committee suggested that more explicit language was needed. The Committee did reject the rule, but passed the bill.

Vice Chairman Vick said the statute says the fee will be established by rule, and the rule says the fee will be established by law. **Ms. Kiefer** said that at the time the rule was written, they referenced existing code and the existing fee for hunter education is the same fee that is utilized for mandatory wolf trapping. **H 378** came after promulgation of the rule; it does not change that fee, it just emphasizes that it will also be a fee for trapping education.

Senator Hagedorn inquired if the mandatory wolf trapping education was located in the wolf trapping management plan that was approved by the Fish and Wildlife Commission and the Legislature. **Ms. Kiefer** stated that the rule was not yet finalized, but the Legislature approved plan talks about education.

MOTION:

Senator Heider moved to approve **Docket No. 13-0116-1501**. **Senator Stennett** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Hagedorn moved to hold **Docket No. 13-0116-1501** in Committee. **Senator Siddoway** seconded the motion.

Senator Hagedorn said his problem with the rule was the mandatory portion of it. He said he understands the need for education but questions the requirement to have someone go to a classroom for that education when there are so many other methodologies that could be used and are available. **Senator Siddoway** stated that he concurs with Senator Hagedorn's logic.

Vice Chairman Vick inquired if "holding the rule in Committee" was the same as "rejecting the rule." **Senator Hagedorn** said he would change the language in his motion to say "rejecting the rule." **Senator Siddoway**, who seconded the motion, said that language met with his approval.

Chairman Bair was in doubt as to the voice vote on the substitute motion and asked for a roll call vote. Voting aye were **Senators Hagedorn, Bayer, Nuxoll, Siddoway, Vick** and **Bair**. Voting nay were **Senators Lacey, Stennett** and **Heider**. The substitute motion carried and the rule was rejected.

H 350

Jeff Gould, Wildlife Chief, IDFG, presented **H 350**. This bill raises the minimum age required to possess a Wildlife Management Area (WMA) Upland Game Bird Permit from age 17 to age 18. Possession of this permit is required to hunt pheasants at certain wildlife management areas designated by the Fish and Game Commission where pheasants are stocked. This change will simplify the licensing rules for eligible individuals who are 10 to 17 years of age to hunt with a Junior Hunting or Combination License.

MOTION:

Vice Chairman Vick moved that **H 350** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

S 1226

Senator Hagedorn presented **S 1226** and stated that this bill would increase the penalties for illegal killing, illegal possession or illegal waste of certain species of big game. He said that the penalties are not doing what they were initially intended to do, which is to deter this type of activity. The penalty for wolves was not touched as Idaho is still under the federal wolf management plan.

TESTIMONY:

Burk Mantel testified in support of **S 1226**. Attached are copies of his testimony, spreadsheet and inflation rate charts that he referred to (see attachment 3).

John Caywood said a group of sportsmen identified an issue needing attention (penalties for illegal killing) and **Senator Hagedorn** agreed to help them. **Mr. Caywood** stated that no one organization is bringing **S 1226** forward, but they all support it. Following is a list of the supporters:

1. Wild Turkey Foundation (7 chapters)
2. Safari Club International
3. Backcountry Hunters and Anglers
4. Idaho Chukar Foundation
5. Citizens Against Poaching
6. Conservation Voters for Idaho
7. Pheasants Forever
8. Quail Forever
9. Ada County Fish and Game League
10. Many others who respect law and order and love Idaho's wildlife.

Bill London testified in support of **S 1226**, which would increase civil penalties to adjust for inflation.

Mark Gibson said he is currently a two-year board member of Region 3, Citizens Against Poaching. He said the board supports **S 1226**. **Mr. Gibson** provided a picture of a large buck deer that was poached and related the story about it. He feels there is a real need for an increase in the penalties.

Forrest Goodrum, representing the Ada County Fish and Game League, said they support the bill and thanked Senator Hagedorn for bringing it forth.

Jeff Gould, Chief of Wildlife for IDFG, said that in the last three years, deer and elk violations are the most common. IDFG sees this bill as another tool for them and they support **S 1226**.

Idaho Conservation Officer's Association submitted a letter of support for **S 1226** (see attachment 4).

Senator Hagedorn said there are some issues going on in the House with a member and he wanted it in the record that the sportsmen approached him about these penalty increases in late summer, well before hunting season; they worked diligently on this bill, which he appreciates.

MOTION:

Senator Stennett moved that **S 1226** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

Senator Nuxoll said that in her area, with low wages, the citizens live on wild meat, and she has a problem with raising the fees.

Senator Siddoway said he will not support the bill and will direct his remarks to the Board of IDFG. Until the IDFG Board addresses the depredation problems and landowners' losses, **Senator Siddoway** said he could not support legislation like this.

Chairman Bair was in doubt as to the voice vote on the motion and asked for a roll call vote. Voting aye were **Senators Lacey, Stennett and Hagedorn**. Voting nay were **Senators Bayer, Nuxoll, Heider, Siddoway, Vick and Bair**. The motion failed.

PRESENTATION: **Teri Murrison**, Administrator, Idaho Soil and Water Conservation Commission (SWC Commission), provided a PowerPoint presentation of their annual report. The slides included a photo of Hugh Hammond Bennett, the nation's first conservationist of the then Soil Conservation Service, now the Natural Resources Conservation Service (NRCS). He worked with states, including Idaho, to establish state conservation agencies and local conservation districts.

In 1939, formation of local conservation districts were formed and the SWC Commission was established. Their responsibilities have since expanded to include programs and projects benefitting soil, water, air, plants and animals. The SWC Commission helps private landowners take care of and improve agricultural production and natural resources. It also promotes cooperative and collaborative efforts among local people.

The SWC Commission is made up of five board members, employs 17 staff and has three core functions: 1.) provide districts with technical and other support services; 2.) offer non-regulatory, science-based programs to promote voluntary conservation; and 3.) administration.

There are 50 districts in Idaho, and the SWC Commission allocates funds directly to them, which amounted to more than \$1.25 million last year and another \$560,000 worth of staff time. Unfortunately, the SWC Commission could only provide about half of the technical assistance requested by the districts. Of the 50 districts, 40 were assisted with projects, 57 new projects were initiated and work was ongoing with 106 projects.

The Resource Conservation and Rangeland Development Program (RCRDP) offers low-interest loans to purchase equipment and install projects that have conservation benefits. Interest rates for loans range from 2.5 percent to 3.5 percent. Twenty loan applications were processed with seven being approved, loaning out almost \$400,000.

The Conservation Reserve Enhancement Program (CREP) conserves water usage on marginal farm ground in the Eastern Snake River Plain Aquifer. Participating landowners receive \$130 an acre per year from the USDA Farm Service Agency in exchange for not farming these lands. There has been talk lately of increasing the federal compensation per acre as a means to increase participation in the program. Last year, 155 CREP contracts were signed, enrolling 16,500 acres and saving over 66,000 acre feet of water.

Another conservation program that is operated is the Nitrate Priority Area/Ground Water Program. Last year 40,000 acres were treated, reducing nitrates.

Last year the Idaho Agricultural Pollution Abatement Plan, Idaho's response to Section 208 of the federal Clean Water Act, was updated. It details how agricultural nonpoint source pollution is to be managed. An advisory committee helped with the update and the final plan has been certified by the Governor.

In closing, a video was shown about the Whiskey Creek/ Bear River Project and the accomplishments that have been made.

Chairman Bair thanked Ms. Murrison for her report.

ADJOURNED: **Chairman Bair** adjourned the meeting at 2:55 p.m.

Senator Bair
Chair

Juanita Budell
Secretary

Juanita Budell

Attachment 1
3/7/16

From: Mark Collinge [mdcollinge@cableone.net]
Sent: Wednesday, February 24, 2016 9:24 AM
To: Juanita Budell
Cc: Patrick Carney; Sharon Kiefer
Subject: House Bill 378

I am a retired Wildlife Biologist and lifelong trapper, a life member of the National Trappers Association, and I currently serve on the Board of Directors for the Idaho Trappers Association (ITA). I am writing to express my support for passage of House Bill 378. ITA believes an effective trapper education program will help greatly reduce any likelihood of conflicts between trappers and the public by teaching proper and selective trapping techniques, good conduct, ethics, and respect for the rights and property of others. ITA members will be willing to participate as volunteer trapping education instructors, and a number of our members are already certified by IDFG as instructors. ITA would appreciate it if you could convey our association's support of this bill to the Committee members. Thank you.

Mark Collinge
Idaho Trappers Association Board Member
Eagle, ID

Juanita Budell

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3/7/16

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Mark Collinge
Idaho Trappers Association Board Member
Eagle, ID

21378

Attachment 2
3/7/16

Nathan Price

(nathanprice2011@gmail.com)

I ask for your attention to the details I am about to share, particularly to the number of times I mention ethics.

53% of Idahoans fish. 35% of Idahoans hunt. 0.14% of Idahoans trap – that's 2339 people in the entire state.

Hunting, fishing, and trapping generates \$1.4 billion dollars per year for Idaho's economy. This is the second most popular outdoor recreation behind camping.

Hunter education is an ever expanding program with 13,500 HE graduates (a 14% increase from last year alone) and 3,900 youth in the passport program that haven't yet taken hunter ed. This program has been eviscerated and neglected for years. Instructor led hunter ed was 12 -18 hours plus a final exam and a 2 hour field day. Instructor led bow hunter ed was also 12-18 hours plus a final exam and a field day. Trapper ed was 16 hours with the largest amount of material, by far. Then a few years ago, it all changed. Some severely misinformed folks decided that folks with firearms weren't worth the education they were receiving.

Now the instructor led hunter ed class is a minimum of 10 hours, 2 of which is field exercise (the live fire portion was eliminated but that's different issue). Online hunter ed is only a final exam and 2 hour field exercise. The instructor led combination hunter and bow hunter class is 12 hours, 2 of which is the field exercise. Instructor led bow hunter classes are 8 hours with a final and 2 hour field exercise. Bow hunter classes online no longer require a field exercise (but that's a different issue). Trapper ed, as a non-mandatory class became 4 hours – now proposed as a 6 hour mandatory class – including the field exercise - with no mention of a final exam.

6 hours to teach 14 types of water sets, 17 types of land sets; signs, tracks, and habitats of 23 different species; parts, uses and limitations of dozens of traps; hundreds of baits, scents, and lures, AND put that newly found knowledge to use in a field exercise. This class has gone from 16 hours and 18 chapters of material to 4 hours and 9 chapters of cartoons.

How can you expect to protect Idaho's \$1.4 billion dollar economy with half the information in 1/3 of the time? The Idaho Trappers Association has stepped up to express their disapproval of this proposal as expressed in a letter from the ITA

President Pat Carney. Two states (Oregon and Minnesota) have already come forward and said that they will NOT accept this program in their state. They will not recognize this class to be sufficient in meeting their requirements for trapper education.

The single most important part of this class is ethics. People in this state and all over the world devote hours upon hours every week of their entire lives studying ethics and morals. Yet they have accomplished nothing in self-control and use of those ethics as evidenced in the daily news. Tens of thousands of hours in a lifetime to accomplish what trapper education instructors are expected to accomplish in six stinking hours.

An individual came here 6 months ago as the ONLY certified trapper education instructor in Southwest Idaho. He held a trapper education class in October and IDFG put out a press release announcing the class. 18 people registered; 5 of those 18 didn't show up; 2 failed for not attending the field day, so only 11 of the original 18 passed the class. Of those 11 students, 7 of them were certified as new trapper ed instructors. Of those 7, only 1 is holding his own classes because the rest of them do not feel comfortable teaching what they have only had 8 hours of experience in learning about. They were not trappers before they took the class and it's extremely likely none of them ever will.

Hunter Ed instructors have very little incentive to do what they do and they have even worse retention. There are 1053 individuals certified to teach hunter education; only 443 for bow hunter education, and a whopping 50 in this whole STATE to teach trapper education. IDFG has tried to propose license and tag incentives specifically for those dedicated individuals, but that's another issue.

We have a lot to gain by allowing trapping. We have much more to lose if we behave irresponsibly and unethically, especially if that is what is portrayed to the media. We can't afford NOT to do this right the first time and every time. Establishing and maintaining an education program that specifically details ethics, as well as legal methods and tools, will build credibility with the public and increase the efficiency and effectiveness of trappers.

Wolf trapper education is designed to accomplish the following:

1. Teach trapper ethics and responsibility when trapping wolves.
2. Reduce the frequency of non-target catches
3. Teach the legal equipment, methods, and regulations
4. Increase trapper's knowledge of trapping with humane and ethical standards.
5. Improve trapper success and efficiency.

The second year of trapping in Idaho, somebody on a snow machine found a wolf in a trap and shot it three times. The picture of that trapped wolf in bloody snow circled the globe and brought criticism and condemnation to trapping and Idaho (but wolves are another issue). We cannot risk Idaho's \$1.4 billion dollar hunting economy or the future of trapping and our wildlife. Making the most controversial form of wildlife management be limited to HALF the mandatory education time is a sophomoric mistake we cannot afford to make.

The same tenants of the federally mandated wolf trapping class apply to the standard furbearer trapping class.

1. Teach trapper ethics and responsibility when trapping.
2. Reduce the frequency of non-target catches – including lynx (but that's another issue)
3. Teach the legal equipment, methods, and regulations
4. Increase trapper's knowledge of trapping with humane and ethical standards.

Improve trapper success and efficiency.

This is not a class about “how to be a redneck.” This is not “Mountain Man 101.” This class is thousands of years of evolution, mixed with hundreds of years of history and decades of science put sideways through modern legal rhetoric and politics.

We have a lot to gain by allowing trapping. We have much more to lose if we behave irresponsibly and unethically, especially if that is what is portrayed to the media. We can't afford NOT to do this right the first time and every time. Establishing and maintaining an education program that specifically details ethics, as well as legal methods and tools, will build credibility with the public and increase the efficiency and effectiveness of trappers.

In case you missed it the last dozen times I've mentioned it, ethics is pretty important and overarching part of Hunter Education in general, not just for wolves, not just for trapping. If ethics were truly considered in the creation of this proposal, there would have been input from those 50 individuals certified to teach trapper education in the state and yet there was not – but that's a different issue. And so, members of the council, when IDFG proposes a rule change concerning hunter education, I implore you, ASK THEM if they considered the instructors. ASK THEM for their proof of representation from the organizations from which they legally and ethically must seek for input – but that's another issue.

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Concepts:

- Wildlife identification
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Equipment & Ethics (1 hour)

Concepts:

- Set types (foot hold, snare, body gripping)
- Trap locations
- Modifications for non-target avoidance from Best Management Practices (stops, pan tension, swivels, anchors, jaws, enclosed triggers)
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Concepts

- Respect: Other trappers, sportsman, non-trappers, landowners
- Image: No carcass dumping, inappropriate social media posts/photos
- Place traps away from high use areas
- Quick humane dispatch of animal, Best Management Practices
- Minimize disturbance on surrounding wildlife
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Concepts:

- Seasons and tags
- Baits/lures/scents
- Reporting (citi tags)

Field Exercise (2 hours)

Concepts

- Hands-on setting trap experience
- Culmination of lessons

S1226 Testimony by Burk Mantel

S1226 is a very simple bill. It adjusts the civil penalties for the illegal taking of wildlife that have not been adjusted since 1999. All wildlife in the great state of Idaho is owned by the state and its citizens. When a person is convicted of taking any of that wildlife illegally they can be subject to a criminal penalty and also assessed a civil penalty to reimburse the state for the value of the property that was taken.

In lines 16 thru 22 you'll see the changes we propose based on a formula I will explain in a minute. You have in front of you a spreadsheet that shows the present and proposed civil penalties and it's probably easier to follow on that spreadsheet than the bill. The spreadsheet also shows the civil penalties in our adjoining states.

The formula we used is based on inflation which is 42.45 percent from 1999 to the end of 2015. You have another sheet that shows that and, also, inflation projected ahead at 3% per year, the generally accepted estimate. You'll see that at that rate, in 5 years inflation will be at 70% since 1999. So we used 70% for our adjustment. Right now we're substantially behind the inflation rate--- for the next 5 years we'd be a little

ahead and 10 years from now we'll be behind again by 25 or 30% percent. At that time we hope someone else will do the adjusting or maybe it will be a housekeeping bill for the Fish and Game Dept.

Our primary reason for this bill is to enhance the deterrent to poaching and we have plans to work with the Citizens Against Poaching board to help put that into effect.

Secondarily, no business would go 16 years without adjusting prices and we believe Idaho shouldn't go 16 years without adjusting its civil penalties. This bill is overdue. Even using our formula you can see on the spreadsheet that Idaho civil penalties are usually less than our neighboring states and I think your constituents would agree that our deer and elk are worth just as much as the deer and elk in our neighboring states.

There are others who will testify on some of the things I've touched on so I'll conclude by asking you to move this bill forward with a due pass recommendation and I'll try to answer any questions you have. Thank you for listening.

Adjoining States Civil Penalty Schedules - JC Feb. 28, 2016

| Wildlife in General | Idaho | Montana | Washington | Utah | Nevada | Oregon | Wyoming - Note 2. |
|--------------------------------|-----------------|----------------|---------------|---------------|-------------------|----------------------|--------------------|
| | Present Penalty | S1226 Proposal | | | | | |
| Elk | \$750 | \$1,000 | RCW 77.15.420 | UC 23-20-45 | N.R.S. 501.3855 | ORS 496.6705 | WyoStat 623-3-102d |
| Caribou | \$1,500 | \$1,000 | \$2,000 | \$750 | \$ 250- 5,000 | \$1,500 | \$ 5,000 - 10,000 |
| Bighorn | \$1,500 | \$2,000 | \$12,000 | | | | |
| Mtn Goat | \$1,500 | | \$ | \$1,000 | \$ 250- 5,000 | \$10,000 | \$ 5,000 - 10,000 |
| Moose | \$1,500 | | \$4,000 | \$1,000 | \$ 250- 5,000 | \$10,000 | \$ 5,000 - 10,000 |
| Other Big Game | \$400 | \$700 | \$4,000 | \$400 | \$ 250- 5,000 | \$1,000 | \$ |
| Turkey | \$250 | | \$ | \$100 | | \$100 | \$ |
| Swan | \$250 | | \$ Note 1 | \$100 | \$ 250- 5,000 | | \$ |
| Sturgeon | \$250 | | \$ | | | \$ 250 - 1,000 | \$ |
| Bull Trout | \$150 | | \$ | | | \$250 | \$ |
| Salmon, Steelhead | \$150 | | \$ | | | | \$ |
| Other bird, fish or furbearer | \$50 | | \$ | 100 / 35 / 25 | \$ 250- 5,000 | \$100 | \$ |
| | | | | | | \$700 bobcat, fisher | |
| Trophy Animal Schedules | | | | | | | |
| Mule Deer | \$2,000 | \$8,000 | \$6,000 | \$8,000 | \$ 5,000 - 30,000 | \$7,500 | \$ 5,000 - 10,000 |
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| Bighorn Sheep | \$10,000 | \$30,000 | \$12,000 | \$30,000 | \$ 5,000 - 30,000 | \$25,000 | \$ 5,000 - 10,000 |
| Moose | \$10,000 | \$6,000 | \$4,000 | \$6,000 | | \$25,000 | \$ 5,000 - 10,000 |
| Mtn Goat | \$10,000 | | \$4,000 | \$6,000 | \$ 5,000 - 30,000 | \$25,000 | \$ 5,000 - 10,000 |
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| Caribou | \$10,000 | | | | | | |

| Compounding? | Yes | Yes | No | Civil Forfeiture w doubling | Civil Forfeiture | Civil Forfeiture |
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Burk Mantel

Inflation @ 3% 1999---2026

1999---\$100

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In Support of Civil Penalty Bill (SB 1226)

The Idaho Conservation Officer's Association strongly supports the Wildlife Civil Penalty Bill (Senate Bill 1226) sponsored by Senator Marv Hagedorn. This bill would increase the civil penalties by magistrate and district judges to any person convicted of illegal killing, illegal possession or illegal waste of certain species of big game. There has not been an increase in the civil penalties for Idaho wildlife in over 20 years. The value of elk would be raised from \$750 to \$1000. The value of caribou, bighorn sheep, mountain goat and moose would be increased from \$1500 to \$2600. The value of any other big game would be increased from \$400 to \$700. Currently wildlife especially big game is extremely undervalued in Idaho. Wildlife is a valued resource in Idaho by hunters, conservationists, wildlife photographers and hikers. I urge you to support this bill in the Senate.

***ICOA - Working for Wildlife, Working for
Officers, Since 1976***

Juanita Budell

Attachment 1
3/7/16

From: Mark Collinge [mdcollinge@cableone.net]
Sent: Wednesday, February 24, 2016 9:24 AM
To: Juanita Budell
Cc: Patrick Carney; Sharon Kiefer
Subject: House Bill 378

I am a retired Wildlife Biologist and lifelong trapper, a life member of the National Trappers Association, and I currently serve on the Board of Directors for the Idaho Trappers Association (ITA). I am writing to express my support for passage of House Bill 378. ITA believes an effective trapper education program will help greatly reduce any likelihood of conflicts between trappers and the public by teaching proper and selective trapping techniques, good conduct, ethics, and respect for the rights and property of others. ITA members will be willing to participate as volunteer trapping education instructors, and a number of our members are already certified by IDFG as instructors. ITA would appreciate it if you could convey our association's support of this bill to the Committee members. Thank you.

Mark Collinge
Idaho Trappers Association Board Member
Eagle, ID

21378

Attachment 2
3/7/16

Nathan Price

(nathanprice2011@gmail.com)

I ask for your attention to the details I am about to share, particularly to the number of times I mention ethics.

53% of Idahoans fish. 35% of Idahoans hunt. 0.14% of Idahoans trap – that's 2339 people in the entire state.

Hunting, fishing, and trapping generates \$1.4 billion dollars per year for Idaho's economy. This is the second most popular outdoor recreation behind camping.

Hunter education is an ever expanding program with 13,500 HE graduates (a 14% increase from last year alone) and 3,900 youth in the passport program that haven't yet taken hunter ed. This program has been eviscerated and neglected for years. Instructor led hunter ed was 12 -18 hours plus a final exam and a 2 hour field day. Instructor led bow hunter ed was also 12-18 hours plus a final exam and a field day. Trapper ed was 16 hours with the largest amount of material, by far. Then a few years ago, it all changed. Some severely misinformed folks decided that folks with firearms weren't worth the education they were receiving.

Now the instructor led hunter ed class is a minimum of 10 hours, 2 of which is field exercise (the live fire portion was eliminated but that's different issue). Online hunter ed is only a final exam and 2 hour field exercise. The instructor led combination hunter and bow hunter class is 12 hours, 2 of which is the field exercise. Instructor led bow hunter classes are 8 hours with a final and 2 hour field exercise. Bow hunter classes online no longer require a field exercise (but that's a different issue). Trapper ed, as a non-mandatory class became 4 hours – now proposed as a 6 hour mandatory class – including the field exercise - with no mention of a final exam.

6 hours to teach 14 types of water sets, 17 types of land sets; signs, tracks, and habitats of 23 different species; parts, uses and limitations of dozens of traps; hundreds of baits, scents, and lures, AND put that newly found knowledge to use in a field exercise. This class has gone from 16 hours and 18 chapters of material to 4 hours and 9 chapters of cartoons.

How can you expect to protect Idaho's \$1.4 billion dollar economy with half the information in 1/3 of the time? The Idaho Trappers Association has stepped up to express their disapproval of this proposal as expressed in a letter from the ITA

President Pat Carney. Two states (Oregon and Minnesota) have already come forward and said that they will NOT accept this program in their state. They will not recognize this class to be sufficient in meeting their requirements for trapper education.

The single most important part of this class is ethics. People in this state and all over the world devote hours upon hours every week of their entire lives studying ethics and morals. Yet they have accomplished nothing in self-control and use of those ethics as evidenced in the daily news. Tens of thousands of hours in a lifetime to accomplish what trapper education instructors are expected to accomplish in six stinking hours.

An individual came here 6 months ago as the ONLY certified trapper education instructor in Southwest Idaho. He held a trapper education class in October and IDFG put out a press release announcing the class. 18 people registered; 5 of those 18 didn't show up; 2 failed for not attending the field day, so only 11 of the original 18 passed the class. Of those 11 students, 7 of them were certified as new trapper ed instructors. Of those 7, only 1 is holding his own classes because the rest of them do not feel comfortable teaching what they have only had 8 hours of experience in learning about. They were not trappers before they took the class and it's extremely likely none of them ever will.

Hunter Ed instructors have very little incentive to do what they do and they have even worse retention. There are 1053 individuals certified to teach hunter education; only 443 for bow hunter education, and a whopping 50 in this whole STATE to teach trapper education. IDFG has tried to propose license and tag incentives specifically for those dedicated individuals, but that's another issue.

We have a lot to gain by allowing trapping. We have much more to lose if we behave irresponsibly and unethically, especially if that is what is portrayed to the media. We can't afford NOT to do this right the first time and every time. Establishing and maintaining an education program that specifically details ethics, as well as legal methods and tools, will build credibility with the public and increase the efficiency and effectiveness of trappers.

Wolf trapper education is designed to accomplish the following:

1. Teach trapper ethics and responsibility when trapping wolves.
2. Reduce the frequency of non-target catches
3. Teach the legal equipment, methods, and regulations
4. Increase trapper's knowledge of trapping with humane and ethical standards.
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| Turkey | \$250 | | \$ | \$100 | | \$100 | \$ |
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| Compounding? | Yes | Yes | No | Civil Forfeiture w doubling | Civil Forfeiture | Civil Forfeiture |
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AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, March 09, 2016

| SUBJECT | DESCRIPTION | PRESENTER |
|-------------------------|---|--------------------------------|
| Minutes | Approval of Minutes, February 24, 2016 | Senator Bayer |
| Minutes | Approval of Minutes, February 29, 2016 | Senator Lacey |
| HCR 35 | Association of logging contractors | Rep. Malek and Sen. Johnson |
| HCR 43 | Idaho Power Company - 100 Anniversary Honored Video - Honoring Idaho Power Company | Rep. Anderst |
| H 351 | Water resources, design criteria | Jeff Peppersack, IDWR |
| HJM 13 | Sage-grouse conservation plan | Rep. Gibbs |
| H 462aa | Hunting/trapping, age limits removed | Rep. Luker |

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Bair
Vice Chairman Vick
Sen Siddoway
Sen Heider
Sen Nuxoll

Sen Bayer
Sen Hagedorn
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 09, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of February 24, 2016. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

Senator Lacey moved to approve the Minutes of February 29, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

HCR 35 **Senator Johnson** presented **HCR 35**. This concurrent resolution recognizes and honors the Associated Logging Contractors of Idaho (ALC) for 50 years of accomplishments and service to Idaho. The ALC was organized and established in St. Maries in 1966 for the purpose of developing programs and helping members to manage costs of operation and to work together.

Senator Johnson said that in the mid 1990s he did some forestry consulting work, and he found that the loggers are hard working and proud of their profession. Over the years, the trade of logging has gone from the image of Paul Bunyan to one of a skilled tradesman operating computerized equipment. The ALC supports this resolution.

MOTION: **Senator Hagedorn** moved that **HCR 35** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Johnson will be the floor sponsor.

HCR 43 **Rich Hahn**, representing Idaho Power Company, said that **HCR 43** recognizes the Idaho Power Company for its 100 years of service in Idaho. It is headquartered in Boise and has been locally operated since 1916. Idaho Power employs more than 2,000 people who serve about 520,000 customers throughout southern Idaho and eastern Oregon. The customers of Idaho Power pay among the nation's lowest rates for electricity while the company maintains one of the smallest carbon footprints in the nation.

Mr. Hahn stated that he has been with the company for 40 years. One of his first jobs was to read meters, which required him to physically go to each meter and record in a book the kilowatts used. Now, meters are automatically read over the power lines.

A video that provided the history of Idaho Power and its accomplishments was shown to the Committee. **Mr. Hahn**, on behalf of the employees and retirees of Idaho Power, thanked the Chairman and Committee for the opportunity to present **HCR 43** and asked for their support of the legislation.

- MOTION:** **Senator Heider** moved that **HCR 43** be sent to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**. Senator McKenzie will be the floor sponsor.
- H 351** **Jeff Peppersack**, Chief, Water Allocation Bureau, Idaho Department of Water Resources (IDWR), presented **H 351**. **Mr. Peppersack** said this legislation would accomplish two things. First, it would change the definition of a dam to remove some smaller dams from regulation requirements (change from greater than 10 feet or 50 acre-feet to greater than 10 feet and 50 acre-feet). This change would allow IDWR to focus resources on larger dams rated "significant hazard" and "high hazard." They currently regulate almost 500 water storage dams, and the new definition would reduce this number by about 160. Thirty-five of the 160 are "significant hazard" rated and would likely continue to be regulated.
- The second change would require written approval from the IDWR for plans, drawings and specifications to be submitted by a professional engineer to construct, enlarge, alter or repair all dams based on the new definition. This would eliminate the current gap for dams regulated by IDWR that do not have plans, drawings and specifications and the benefit of design by a professional engineer. The lack of these requirements hinders IDWR's ability to properly inspect and recommend action for protection of public safety.
- MOTION:** **Senator Siddoway** moved that **H 351** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.
- HJM 13** **Representative Gibbs** stated that he, Senator Brackett and Speaker Bedke had been working with a group of Legislators from other states dealing with the sage-grouse issue for the past two years. He then yielded his time to Senator Brackett to present **HJM 13**.
- Senator Brackett** said that **HJM 13** asks the U.S. Congress to allow time for the Idaho sage-grouse conservation plan to be implemented and the data collected to be analyzed. It also calls on Congress to not provide funds to the Secretary of the Interior or the Secretary of Agriculture to implement recent federal land use plan amendments for a period of 10 years, through and including fiscal year 2026, if the plans are inconsistent with the State's sage-grouse conservation plan
- Senator Brackett** said that the U.S. Fish and Wildlife Service issued a federal land-use plan that is inconsistent with the State's sage-grouse plan and also elevated secondary threats to primary threat status.
- MOTION:** **Senator Hagedorn** moved that **HJM 13** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.
- H 462aa** **Representative Luker** presented **H 462aa**. Idaho Code § 36-401 provides an exception to the licensing requirement that only applies to resident children under the age of 12 to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms. Another similar exemption applies to resident children under the age of 14 years to trap muskrats from irrigation ditches or from property on which they live during the open season. This bill would expand those exemptions to include any person on private property. However, the exemption does not apply to taking these animals with firearms.

TESTIMONY: **Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game (IDFG), testified in opposition to **H 462aa**. She stated that the current exemptions in 36-401 that would be amended by **H 462aa** were commonly called "farm kid exemptions" to kill gophers and muskrats on the farm and there was never any intent to provide broad exemption to adults. **Ms. Kiefer** said the IDFG Commissioners do not support this legislation. A copy of Ms. Kiefer's full testimony is attached (see attachment 1).

Written testimony was submitted by Patrick Carney, president of the Idaho Trappers Association (ITA). The ITA is opposed to **H 462aa**. A copy of his testimony is attached (see attachment 2).

MOTION: **Senator Nuxoll** moved that **H62aa** be sent to the floor with a **do pass** recommendation. The motion failed due to the lack of a second.

ANNOUNCEMENT: **Chairman Bair** announced that further meetings will be subject to the call of the Chair.

ADJOURNED: **Chairman Bair** adjourned the meeting at 2:50 p.m.

Senator Bair
Chair

Juanita Budell
Secretary



Attachment 1
3/9/16

IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

C.L. "Butch" Otter / Governor
Virgil Moore / Director

March 9, 2016

To: The Senate Resources and Environment Committee

Testimony of Sharon W. Kiefer, Idaho Department of Fish and Game
House Bill 462 as amended

Chairman Bair and Committee:

Thank-you for the opportunity to discuss House Bill 462 as amended. A copy of my testimony is in your folder.

The current exemptions in 36-401 that would be amended by House Bill 462aa were commonly called farm kid exemptions to kill gophers and muskrats and so forth on the farm. There was never any intent to provide broad exemption to adults.

The section of Idaho Code being amended is specific to Hunting, Trapping, and Fishing. This is an important point when you look at other provisions of Title 36.

House Bill 462aa substantially broadens hunting or license exemption to hunt (excluding firearm) and trap to any age person on private property. I note the liberalization to now include nonresident persons to hunt, take or kill predatory and unprotected wildlife by means other than a firearm and also to trap muskrats, a protected furbearer, from irrigation ditches or on any private property during the open season. Note – this exemption is not restricted to property they own, another broadening of this privilege to take the state's protected wildlife. As you know, muskrats have some commercial value although not a high market fur.

A few background points to understand the public policy context of this bill:

I.C. 36-103 declares all wildlife within Idaho to be the property of the state. By definition of wildlife in I.C. 36-202(g), wildlife includes the subjects of this bill - predatory and unprotected birds and animals, and muskrats. Managing the state's property is paid for through IDFG licensing for hunting, fishing, and trapping.

Predatory wildlife is defined in I.C. 36-201 to include coyote, jackrabbit, skunk, weasel/ermine, starling, and raccoon.

Unprotected wildlife (i.e. unprotected birds and animals) is defined in IDAPA 13.01.06 as all wildlife not classified in the preceding categories of the rule, such as big game animals, upland game animals, upland game animals, game fish, furbearing animals, etc.

Examples of unprotected wildlife: Eurasian Collared Dove, Yellow-bellied Marmot (rock chuck), Eastern Fox Tree Squirrel, gopher.

In contrast, muskrat is a protected species, defined as a furbearing animal.

Currently, to hunt predatory and unprotected wildlife, a person must be licensed:

IDAPA 13.01.06.300. 03. Unprotected and Predatory Wildlife. Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner not prohibited by state or federal law, by holders of the appropriate valid Idaho hunting, trapping, or combination hunting and fishing licenses, provided such taking is not in violation of state, county, or city laws, ordinances, or regulations. (7-1-93)

Lines 19-21 on page 1 of the bill would substantially expand the license exemption for any persons to hunt, take, or kill predatory and unprotected wildlife by means other than firearms. This activity could occur at any time on private lands, not necessarily owned by the person conducting the activity. Rather than just residents youth having this privilege, any adult, resident or nonresident would be exempted from licensing and thus exempt from paying for wildlife management in this state and allowed to take the state's property for free.

This provision would NOT exempt a person from existing rules and laws governing the method of take. This provision would prohibit a person to use a firearm to hunt, take, or kill so in our opinion, the most likely method that persons would use to take predatory and unprotected wildlife would be trapping. Other, but less likely methods would include slingshot, archery, and blowgun.

Current rules in IDAPA 13.01.16 govern the Trapping of Predatory and Unprotected Wildlife. The IDFG interpretation is that all of these rules would still apply except that no firearm could be used, including such as to dispatch a trapped animal. Trapping rules are lengthy and govern many elements, including methods of take, trap check, reporting, and area restrictions.

Similarly, any persons, resident or nonresident could trap muskrats on any private property during open season, acquiring a commodity with value that belongs to the state, for free.

Our conclusions about this bill:

H462aa allows persons to take certain wildlife of the state without financially contributing to the management of Idaho's wildlife. This includes everything from monitoring to set seasons, to enforcement, to important financial support of \$100,000 in the form of license fees that are transferred to the Animal Damage Control fund in I.C. 36-112, which is implemented according to a MOU between IDFG and the Idaho State Animal Damage Control Board. This MOU serves as USDA's Wildlife Services authorization from IDFG to take wildlife to prevent or reduce damage to agriculture natural resources and property and to minimize threats to human health and safety and there are appropriate reporting elements ensuring Idaho upholds its sovereignty over wildlife within its borders.

Bottom line – this bill creates free-loaders on the backs of licensed hunters and trappers who pay the bills for the full spectrum of wildlife management.

H462aa will likely exacerbate the current social conflicts about trapping on the Idaho landscape - it will be harder for the Department to "reach out" to unlicensed individuals to inform them of the current laws and rules that govern their activity and thus, we may likely see more illegal activity as a function of uninformed individuals.

We are also concerned that an unintended consequence may be further access restrictions to private lands and particularly, Access Yes properties where trapping might current be an allowed use, may be restricted because of concerns about unlicensed individuals who may not be adhering to legal methods of take.

Our view is that by liberalizing license exemptions particularly for trapping, H462aa would likely increase challenges the Fish and Game Commission is currently presented with in the current and probably future legal arena related to non-target catch of certain species.

There has been suggestion that this license exemption is really just about allowing persons to protect their property from damage. We don't see it that way. We have a wealth of laws and rules that already provide allowances for persons to protect their private property from wildlife using **control** methods not allowed for regulated hunting and trapping. There is a very real distinction between hunting/trapping and "controlling".

I already mentioned our MOU and draw your attention to Chapter 26 in I.C. Title 25 – Extermination of wild animals and pests in counties and the duties and powers of the State Animal Damage Control board and the affiliated animal damage control districts.

I draw your attention to examples such as the Ada County Pest Control District to manage gophers and rock chucks on private property. Poison is allowed for control. Poison is not allowed for hunting by use other than a firearm.

I draw your attention to I.C. 36-1107 - Wild animals and birds damaging property (note this section of code is not about hunting, it is all about "control"). Specifically I note 36-1107(d) - Taking of muskrats in irrigation systems, that allows muskrats to be taken at any time in or along the banks of irrigation ditches, canals, reservoirs or dams, by the owners, their employees, or those in charge of the irrigation ditches or canals.

Let's not blur the lines between regulated hunting/trapping and control of wildlife.

Mr. Chairman, the Fish and Game Commission does not support this bill.

Attachment 2
3/9/16

Juanita Budell

From: patrick carney [nafatrapp@q.com]
Sent: Wednesday, March 02, 2016 12:07 AM
To: Juanita Budell
Subject: Re: Senate Bill

Hi Juanita. Would you please forward this to the Senate Resources & Environment Committee?

Please, and thank you very much.

Dear Senate Resources & Environment Committee,

My name is Patrick B. Carney. I am currently the president of the Idaho Trappers Association (ITA). The ITA has been working with the IDF&G to make trappers' education mandatory. We've had several incidents over the last few years that could have been prevented with mandatory trappers' education. We as trappers are under the spotlight of public opinion and perception. When someone does something negative involving traps, the media turns it into a club to beat us with. The price of fur, and the wolf issue brought an influx of new people into trapping. Unfortunately, it has also showed us that we need to set up mandatory trappers' education, as the new trappers had no idea of what to do and what not to do. Many states have mandatory trappers' education for that reason, and to defend trapping.

HB462 will let anyone take predatory, and unprotected birds and animals by trapping and other means without regard to their experience or manner of take. That's a recipe for disaster for those of us that love to trap and don't want to be regulated out of business. There are counties here in Idaho where you cannot trap fox on your own property because of the public perception of trapping, even though it has been proven by many studies that trapping predators increases game birds, game animals and prevents diseases from spreading to our own family pets and children. There are some places where trapping is not compatible with the surroundings, such as trapping coyotes around subdivisions even when coyotes are taking cats and small dogs from yards. That requires someone with experience to find out where the coyotes are coming from, and catch them where people's dogs and cats won't be harmed.

Let's not allow untrained home owners without experience to set traps in their neighborhoods and potentially kill or maim pets, or worse, set the wrong type of traps and injure someone. Let's not allow that to happen to trapping in Idaho.

As for letting anyone trap muskrats in irrigation ditches without training, we would have the same problems regarding pets and untrained trappers. Out of state trappers could come in and trap without paying for a license or having to have trappers' education, which is not a good idea. As for trapping on their own property, or property where they live, IDF&G already has a way for them to take out animals that are causing problems with their property. IDF&G will issue a kill permit to anyone that can show just cause to need one, or they will give them the name of a trapper in their area that can help them out.

If someone wants to trap muskrats in ditches or on their own property for the fur, then let them get licensed with the proper training to do it right. We make landowners get licensed to hunt big game on their own property. There is no difference. While this may be well intentioned, it will cause more problems than it will cure.



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